

**REPORT TO GOVERNMENT:
INQUIRY INTO GAMING IN NSW**

**INDEPENDENT PRICING AND REGULATORY TRIBUNAL
OF NEW SOUTH WALES**

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EXECUTIVE SUMMARY

Introduction

The *Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act* (1998) required the Government to initiate an independent inquiry into the social impacts of gaming. The Act also requires the inquiry to consider the organisational arrangements for the regulation of gaming. On 30 June 1998 pursuant to section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*, Cabinet Office (on behalf of the Government) sought the assistance of the Independent Pricing and Regulatory Tribunal (IPART) to conduct the inquiry required by the *Community Partnership Act*. The Act requires a report to be presented to NSW Parliament by 26 November 1998.

For the purposes of the inquiry, “gaming” is to include machine gaming, casino gaming, all lottery products, and Club Keno. The terms of reference for this inquiry are contained in Attachment 1.

What is gaming?

Gaming is defined as the playing of games of chance for money.¹ Technological change is having a direct and rapid impact on the ways in which gaming takes place. Interactive gaming, whether via the Internet or television, effectively brings such activities as lotteries and the gaming facilities provided by casinos and gaming machines into people’s home, or other places outside designated gaming locations. Legalised Internet gaming is already taking place in some jurisdictions such as Tasmania and is shortly to commence in Queensland. Residents of other states and overseas will be able to access these services. While the terms of reference do not explicitly cover Internet gaming, many submissions raise this as an issue that needs to be addressed. This report will address some of the concerns (see section 2.1.5).

Why do people gamble?

Many Australians regard gaming as an enjoyable activity. Some of the more common reasons or objectives for participating in gambling include:

- a way of passing time in a pleasant social environment
- a form of entertainment or an escape from reality
- the chance of achieving the dream of financial security.

Money lost in gaming is usually justified as the price paid for attempting to meet the objectives. The increased availability of gaming has improved the range and quality of entertainment opportunities available to a large number of Australians. The increase in gaming expenditure, compared with other areas of consumption, provides an indicator of the value consumers place on participation in gaming.

Responsible gaming

Fostering responsible gaming is assisting consumers to enjoy gaming while reducing the likelihood that their gaming will become a problem. There are strong similarities between the consumption of gaming and of alcohol. Both constitute a form of entertainment or

¹ The Concise Oxford Dictionary.

relaxation for many people. However, in excess, both can cause devastating effects. Stakeholders in the alcohol industry have responded to the negative effects of alcohol with voluntary actions and actions required by regulation. Responsible service of alcohol accords are examples of government and industry initiative. Government and industry emphasise that alcohol should be enjoyed in moderation. Similarly, the gaming industry needs to caution people to bet no more than they can afford.

There also needs to be a balance between ensuring that venue operators act responsibly in the delivery of gaming, and ensuring that regulations and codes are not so onerous that participants are driven to other forms of gaming that are less subject to controls, for example illegal gaming or the Internet. To the extent that this occurs, NSW could still have many of the problems resulting from problem gambling but would be deprived of a source of revenue (from duty) to address them. Thus, there is some scope for the Government to insist that gaming should be conducted subject to certain standards while recognising this balance.

Why is gaming regulated?

The only product that exchanges hands in gaming is money. As a consequence, if gaming is not properly controlled, it is susceptible to criminal activity, fraud and dishonesty. Individuals can, and in some cases do, become addicted to gaming, with adverse effects for themselves, their families and society in general. Most developed countries therefore regulate gaming, on both criminal and social policy grounds.

What are the objectives of gaming regulation?

The regulatory objectives for gaming in NSW are defined within the various pieces of legislation that cover the gaming industry. The objectives can be summarised as:

- keeping the gaming industry free of criminal activity
- ensuring that consumers who choose to engage in gaming are protected from unscrupulous and irresponsible conduct
- ensuring that gaming is conducted fairly
- minimising the social and personal harm associated with participation by consumers in gaming activities
- ensuring that an appropriate share of the revenue from the conduct of gaming is paid in taxation for the benefit of the whole community.

However, there are limits to the extent that government can regulate because of the need to avoid increasing the appeal of:

- illegal forms of gaming
- providers of gaming in other states and countries.

Is the current regulatory structure meeting its objectives?

In assessing whether this regime requires change, IPART has relied upon public submissions, public hearings, a gaming forum and numerous meetings with industry stakeholders and welfare groups. Ultimately, IPART has to make a judgement based on the available information.

Information made available to IPART suggests that the current regulatory arrangements are not fully meeting all of the above-mentioned regulatory objectives across the industry. For example:

- Current regulations are not being adequately enforced in hotels and clubs.
- There is inadequate consumer protection in hotels and clubs.
- Some overlap in functions and insufficient co-ordination between the Casino Control Authority (CCA) and the Director of Casino Surveillance (DCS) as indicated by the Audit Office's recent review².
- Possible deficiencies relating to the allocation of control functions (licensing and disciplinary powers) to a Minister – in the case of licenses under the Public Lotteries Act, and the Links and CMS under the Liquor and Registered Clubs Acts.
- To date, community consultation on the expansion of gaming has been poor.

Although casinos require greater regulatory observation, the level of monitoring and enforcement of liquor licensing and machine gaming at Star City is substantially higher than for registered clubs and hotels. On balance, IPART has come to the view that revised regulatory arrangements are desirable. The existing regulatory arrangements are fragmented and inconsistent. This is of particular concern because technological changes are making different games increasingly similar.

IPART's preferred model for gaming regulation

Recommendation

The Tribunal recommends that the regulatory structure for the NSW gaming (and liquor) industry comprises two bodies:

- ***a gaming commission to undertake the control functions of the gaming industry; and***
- ***an enforcement and policy agency.***

The Independent Gaming & Liquor Control Authority (Gaming Commission):

The Gaming Commission, to be referred to as the Independent Gaming and Liquor Control Authority (IGLCA) would undertake all control functions for the gaming and liquor³ industries. It would absorb the CCA and the Liquor Administration Board (LAB) and its functions would include:

- control functions of the LAB, for example community disturbance complaints
- control functions of the CCA, for example, disciplinary matters against the casino operator
- control functions of the Licensing Court, for example contested licence applications
- control functions required under the Public Lotteries Act and any other control functions currently undertaken by the Minister
- a monitoring and reporting role covering the effectiveness:
 - of overall gaming enforcement

² See section 3.1, and Box 2.

³ While liquor is not included in the terms of reference, there may be operational efficiencies and other benefits in combining gaming and liquor regulation – see section 4.4.2

- of consumer protection in gaming
- of the Casino Community Benefit Fund.

The IGLCA would be a statutory authority with an independent board. The IGLCA Board would report to the Minister, but would only be subject to ministerial direction in specific instances via tabled and gazetted public notice as per the current CCA model. The board would have a performance agreement with the Minister, the CEO would have a performance agreement with the Board. The new control authority would have the same high level of independence that the CCA currently has. **Importantly, the IGLCA must employ its own staff and control its own budget.**

Gaming & Liquor Agency (GLA):

The regulatory and policy functions of the gaming and liquor industries should be fulfilled by the Gaming and Liquor Agency. It is vital to ensure separation of the control and enforcement functions to provide appropriate checks and balances, minimise the potential for corruption, ensure proper accountability and maximise public confidence.

The GLA would undertake the following functions:

- the enforcement functions of the present department, including the Director of Casino Surveillance
- the enforcement functions of the LAB
- policy development and advice to government on all gaming related topics including consumer protection, responsible gaming policies, access and game types
- community consultation
- the co-ordination of research into all aspects of gambling
- the co-ordination of services (in consultation with the Department of Health and DOCS) for problem gamblers and their families
- administration of the community benefit fund.

The GLA would report to and be under the control of the Minister. A priority for the GLA should be the implementation of a central monitoring system (CMS) without delay to ensure the integrity of gaming machines and to provide certainty that duty is not avoided. The NSW Totalizator Agency Board (TAB) is the sole operator of CMS in NSW but also can participate in gaming. Government needs to ensure that the CMS activities of TAB will be adequately ringfenced⁴ from TAB's commercial gaming activities.

It has been put to IPART that minor control functions such as the issuing of minor variations to liquor licences and some employee licences are more akin to an administrative function and accordingly should not encumber the control authority. Government needs to consider whether minor control functions, that are predominantly administrative in nature, should be completed by the ILGCA or delegated by the ILGCA to the Gaming and Liquor Agency.

⁴ Ringfencing is ensuring a clear separation of subsidiaries or divisions of a company that may be viewed as having competitive advantages in their dealings with each other.

Fostering responsible gaming

Venue operators, Star City, NSW Lotteries, Keno, the RCA representing registered clubs and the AHA representing hotels have developed individual codes of conduct aimed at fostering responsible gaming. These are a starting point but have limitations (see section 5.2). Through submissions to this inquiry, many from people adversely impacted by gambling, and through public hearings and other meetings, the Tribunal has compiled a list of measures that may foster responsible gaming. The measures identified to foster responsible gaming are:

- Education
- Codes of conduct
- Licensing of gaming employees
- Responsible advertising
- Labelling, signage and brochures
- Enforcing the ban on credit betting
- Improved consumer protection
- Self exclusion programs
- Responsible provision of complimentary inducements
- Availability of professional counselling
- Research
- Support services for problem gambling
- Ban employees from gaming
- Family protection
- Access to ATMs
- Improving the design of gaming venues
- Community consultation

Implementation of responsible gaming policies should be the prime responsibility of the venue operators.

One of the difficulties inherent in assessing which measures assist in fostering responsible gaming is a lack of detailed research on the effects of gambling and the effectiveness of measures to promote responsible gaming. The short time frame for this inquiry prevented the commissioning of research.

Recommendation

IPART strongly recommends that the Gaming and Liquor Agency immediately commence coordinating and prioritising research into gaming – why people gamble, why gambling becomes a problem for some people, prevention methods and other related topics. The Agency should include as an immediate priority the investigation of the effectiveness of the measures to promote responsible gaming and assess their strengths and limitations.

The Agency should provide a list of priorities to the CCBF who should develop a strategic research plan in consultation with the community and industry and then tender to have this research undertaken over the next three years. Funding for this research would continue to be provided by the Casino Community Benefit Fund.

The ILGCA should review the overall effectiveness of the research effort.

Gambling support services and research

Support services for people affected by problem gambling are provided by both government and non-government organisations(NGOs). Examples of NGOs include

- Psychiatrists and general practitioners.

- Voluntary groups such as Gamblers Anonymous (GA) and Gamblers Help Line.
- Religious and welfare groups such as Wesley, The Smith Family, and St Vincent de Paul.

NSW Health also provides a range of treatment and counselling interventions including hospital treatment, community health centres, and drug and alcohol services. DOCS provides and manages funding for community assistance projects for approximately 1,700 community organisations.

From evidence provided to IPART, no single organisation sees itself in the role as co-ordinator of support services and research. However, co-ordination is required to ensure that for both gambling support services and research:

- there are sufficient services throughout the state and there is no undesirable duplication of services within an area
- appropriate research is undertaken.

Several submissions suggest that either NSW Health or the Department of Community Services (DOCS) would be the most appropriate co-ordination agency. However, concern has also been expressed that both NSW Health and DOCS could have conflicting priorities with other very worthwhile programs that they are currently administering. If either of these organisation were to take prime responsibility for gambling issues then it has been put to IPART that the provision of problem gambling support services and research may not receive adequate funding.

IPART proposes that the Gaming and Liquor Agency fulfil both the regulatory and policy functions (including harm minimisation policies) for the gaming industry. IPART recommends that this agency be the lead coordinator of the government's contribution to support services for gaming related problems and research, and provide appropriate Casino Community Benefit Fund (CCBF) administration. However, GLA should ensure it closely consults with both NSW Health and DOCS in:

- developing a policy framework in relation to problem gambling advice, assessment and treatment services covering all NSW, not just metropolitan areas
- developing a strategic plan for relevant gaming industry research
- ensuring, as far as possible, that duplication is avoided and efficiencies in service delivery are maximised.

Operation of the community benefit fund

In the four years that the CCBF has operated, some stakeholders have been dissatisfied with its operations. For example, claims have been made that there has been insufficient spending on support services for problem gamblers and their families, too much spending on general community programs, insufficient funding of relevant research, lack of strategic planning, and poor administration.

Many stakeholders have submitted to IPART that the problems of the CCBF can be addressed by additional funding. The level of appropriate funding for a community fund and any potential recommendations to improve the operation of the scheme, in part depend upon whether money from such a fund should be solely used for:

- issues specific to the gaming industry such as services for problem gamblers and their families, prevention and education campaigns and research into gambling; and

- provide a benefit to the wider community (as recommended by Sir Laurence Street⁵).

Ideally, an appropriate amount of funding for problem gaming support services and research should be identified. Each year funding up to this level could be provided by the Government and placed into a fund. However, given the current lack of data on appropriate levels of funding, IPART recommends that the most practical solution is to maintain the existing funding arrangements until the CCBF funding hypothecation⁶ is reviewed by the Treasurer in December 2000. By this time, sufficient information should be available to determine an appropriate budget for the fund. This review should also take the opportunity to consider a more uniform system of contributions to any fund by all segments of the gaming industry.

Recommendation

The Tribunal recommends that:

- ***the current Casino Community Benefit Fund provide funding for only support services for gaming related problems, responsible gaming practices and for general research into gaming***
- ***the benefit fund maintain its current level of funding until December 2000, at which stage the appropriate level of funding should be reconsidered***
- ***The Gaming and Liquor Agency both supply appropriate expertise to professionally administer the fund and coordinate gaming related support services and research in close consultation with NSW Health and DOCS***
- ***The Minister continue to approve the granting of monies from the fund, based on the recommendations of a board of trustees.***

Recommendation

The Tribunal further recommends that as a priority the Gaming and Liquor Agency establish, maintain and publicise a register of relevant gambling support services on a regional basis.

Social impacts of gaming

Gaming has a number of direct and indirect impacts on people – whether as individuals, family members, local community members or as residents of NSW. The impacts can be both positive and negative. Gaming is a pleasurable activity or recreation for very many people. For these people the ‘losses’ from gaming are the cost of that form of entertainment.

Whilst gaming is an entertaining pastime for many people, it can also cause harm to particular gamblers and their families. The gaming industry also has impacts, both positive and negative, on the NSW economy as a whole.

The short timeframe for this inquiry prevented IPART conducting a thorough social and economic analysis of the gaming industry. Instead IPART has considered information in submissions, hearings and meetings. Reference has also been made to the limited research that has been carried out in this area. IPART is aware that the Productivity Commission

⁵ Report on the Inquiry into the Establishment and Operation of Legal Casinos in NSW, 1991.

⁶ Hypothecation refers to a pledge to return a specific level of funding. Currently Government hypothecates 2% of Star City gaming profits to the CCBF.

recently commenced a detailed examination of all forms of gambling⁷. The Productivity Commission is due to report to the Commonwealth Government in August 1999 on:

- The economic impacts of the gambling industries, including industry size, growth, employment, organisation and interrelationships with other industries such as tourism, leisure, other entertainment and retailing.
- The social impacts of the gambling industries, the incidence of gambling abuse, the cost and nature of welfare support services of government and non-government organisations necessary to address it, the re-distributional effects of gambling and the effects of gambling on community development and the provision of other services.

Rather than duplicate the work of the Productivity Commission and given the very short timeframe for this review, IPART has limited discussions on the social and economic impacts of gaming to a review of the available literature and material presented to it.

Options for altering gaming access policy

It is well accepted that governments should be responsible to the electorate for significant policy decisions which affect the well-being of the community. Significant policy decisions such as the number of casinos and gaming machines that should be operated within NSW require detailed expert analysis. Consequently, government needs to consider whether it wishes to;

- utilise a model where significant policy decisions are determined, or recommended by, an independent body, or
- retain full government control of such fundamental decisions.

Under either model:

Recommendation

The Tribunal recommends that the government request the Independent Gaming and Liquor Control Authority to undertake periodic reviews of the economic and social effects of gambling.

⁷ People seeking further information on the Productivity Commission's gambling review can contact Mr Ross Wilson by telephoning (02) 6240 3219 or visit the website www.pc.gov.au/inquiry/gambling.

1 INTRODUCTION

1.1 Terms of reference

The Independent Pricing and Regulatory Tribunal (IPART) conducted an Inquiry into an appropriate regulatory framework for the gaming industry and the social impacts of gaming. This Inquiry was a requirement of recent legislation (Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act (1998). This report of the Inquiry is due to be presented to NSW Parliament by 26 November 1998.

Terms of Reference

In conducting this review, the Tribunal is to investigate the:

1. need for and form of a gaming commission or similar authority to oversight gaming
2. relationship that should exist between the Casino Control Authority (and other existing licensing or regulatory bodies) and any such gaming commission or similar authority
3. measures (both existing and potential) to foster a responsible gaming environment
4. co-ordination of the problem gaming policies of hotels, registered clubs and the casino and other providers of gaming
5. co-ordination of problem gaming support services and research centres to address problem gaming.

The Inquiry is to provide general comments on the social impacts of gaming in NSW.

The forms of gaming that are to be covered by this Inquiry are:

- casino gaming
- machine gaming in registered clubs and hotels
- Club Keno
- operations of NSW Lotteries Corporation.

The focus of this Inquiry has been on the form of regulation of the gaming industry in NSW and to provide an overview of measures to foster responsible gaming.

1.2 The processes of this inquiry

The Tribunal has endeavoured to consult as widely as possible in conducting this Inquiry. The Tribunal held public hearings for this Inquiry in Sydney on 7 and 9 September 1998. The Tribunal also held a forum of gaming stakeholders on 15 October 1998. A list of organisations and individuals which the Tribunal consulted with, and a list of submissions received by the Tribunal is included in the attachments. Copies of all public submissions and transcripts of the public hearings are available at the Tribunal's offices at Level 2, 44 Market Street, Sydney or can be viewed at IPART's website, www.ipart.nsw.gov.au

During this inquiry, IPART visited a range of venues offering gaming in Sydney including the casino, hotels, large and small clubs and newsagents. IPART also visited a range of venues in Lismore and Dubbo to assess the impacts of gaming in regional NSW. IPART met with gaming industry regulators and stakeholders in both Melbourne and Brisbane. These

visits were of great value, enhancing the Tribunal's understanding of the industry and helping the Tribunal to formulate recommendations.

Tribunal members who considered this review are:

- Dr Thomas G Parry, *Chairman*
- Mr James Cox, *Full-time Member*

IPART is aware that the NSW Council on the Cost of Government (CoCoG) is also conducting a review of the resourcing of regulation for gaming in NSW. IPART has not had any access to draft reports or reports prepared by CoCoG.

1.3 What is gambling, gaming and wagering?

The terms gambling, gaming and wagering are similar yet have minor differences which are significant to the focus of this Inquiry.

Gambling involves staking money on uncertain events driven by chance. There are two broad categories of gambling; wagering and gaming.

Wagering refers to betting on animal related activities such as thoroughbred horse racing, harness racing and greyhound racing and sport betting.

Gaming is defined as the playing of games of chance for money. Gaming is a term used to describe all non-wagering gambling activities. The main forms of gaming in NSW are: machine based games such as poker machines, table based games in casinos, gaming activities operated by NSW Lotteries (eg Lotto, Oz Lotto, Instant Lotteries and Powerball) and Keno. Other forms of gaming, such as bingo, art unions, legalised two-up at Broken Hill and raffles, are all comparatively small in turnover and not covered by this inquiry.

The definition of gambling is broad enough to be applicable to other high risk activities, such as oil exploration or some speculative stock exchange trading. However, most people do not view such expenditure as gambling. However, gambling has two other features in addition to risk which distinguish it from other risk prone activities:

1. as a group, gamblers necessarily lose money as a result of the activity, because the total 'prize' pool is equal to the accumulated stakes of punters, less duties to government, and profits and costs for operators
2. gambling is a form of entertainment. The excitement of a limited risk gives participants enjoyment.

IPART notes that the use of the term, "gaming" is questioned by several submissions who view the term "gaming" as a contemporary euphemism for gambling.⁸ This report will use the two terms inter-changeably.

Technological change is having a direct and rapid impact on the ways in which gaming takes place. Interactive gaming, whether via the Internet or television, effectively brings such activities as sports betting, lotteries and the gaming facilities provided by casinos and gaming machines into people's homes, or other places outside designated gaming locations. Internet gaming is already taking place in Tasmania and is shortly to commence in

⁸ See submissions to IPART including the AHA p 12 and some from individuals.

Queensland. Residents of other states and overseas will be able to access these services. Whilst the terms of reference do not explicitly cover Internet gaming, many submissions have raised this issue. This report briefly addresses some of the concerns raised (see section 2.1.5).

1.4 Why do people gamble?

Many Australians regard gambling as a enjoyable activity. Most studies estimate that between 70% and 80% of adults participate in at least one form of gambling each year.⁹ It is also estimated that 38% of the population gamble weekly.¹⁰ Yet around a quarter of people never gamble. Some of the more common reasons or objectives for participating in gaming include;

- a way of passing time in a pleasant social environment
- a form of entertainment or an escape from reality
- a means of achieving excitement, a thrill or an adrenalin rush
- a hobby some people use as a method to relax
- a chance of achieving the dream of financial security
- a medium to assist in meeting people.¹¹

Money lost in gaming is usually justified as the price for attempting to meet these objectives.

The increased availability of gaming has improved the range and quality of entertainment opportunities available to a large number of Australians. The increase in gaming expenditure, compared to other areas of consumption, provides an indicator of the value that consumers place on participating in gaming. Over the past two decades the proportion of household disposable income spent on gaming in NSW has risen from 2.12% to 2.79%.¹²

1.5 Responsible gaming

For the vast majority of adults, gaming is an enjoyable recreational activity. However, for some gaming is no longer only a form of entertainment but it is also an obsession. Fostering responsible gaming is all about assisting consumers to enjoy gaming but reducing the likelihood that gaming will become a problem. Star City, NSW Lotteries, Keno, the Registered Clubs Association (RCA) and the Australian Hotels Association have developed individual codes of conduct aimed at fostering responsible gaming. (see section 5.2).

There are some similarities and interdependence between the consumption of gaming and alcohol. Both are considered a form of entertainment or relaxation by the majority of people. But in excessive amounts both can cause devastating effects. Stakeholders in the alcohol industry have responded to the negative effects of alcohol with both regulated and voluntary actions. The responsible service of alcohol is an example of a successful government and industry initiative. Both the government and the industry, have

⁹ Studies such as CCBF Study No 2, 1998, p 9, Victorian Casino and Gaming Authority, *Impact of Gaming Venues on Inner City Municipalities*, December 1997, p 48, and New Zealand Department of Internal Affairs, *People's Participation in and Attitudes Toward Gambling*, March 1996, p 12.

¹⁰ See Casino Community Benefit Fund, *Study No 2*, p 28.

¹¹ As reported by survey participants in Victorian Casino and Gaming Authority, *Impact of Gaming Venues on Inner City Municipalities*, December 1997.

¹² Tasmanian Gaming Commission, *Australian Gambling Statistics 1996/97*, Table 123.

emphasised that alcohol should be enjoyed in moderation. Similarly, the gaming industry needs to encourage people to bet no more than they can afford.

There is also a balance between ensuring that venue operators act responsibly in the delivery of gaming, but that the regulations and codes are not so onerous that participants are driven to other forms of gaming that have less control, for example, illegal gaming, the Internet or possibly visiting interstate venues. To the extent that this occurs, the government could still have many of the problems resulting from problem gambling but they would be deprived of a source of revenue to address them. Thus, there is some, but not unlimited, scope for the government to insist that gaming should be conducted subject to certain standards.

1.6 What is problem gaming?

Problem gaming refers to the harm that may arise from a person's gaming that may impinge on the player, his or her family and may extend into the community.¹³ The vast majority of participants in gaming will commence with a pre-determined expenditure budget and broadly adhere to it. However, a small proportion of people who participate in gambling, somewhere between 0.5% and 3%¹⁴ will develop a problem controlling their participation. In some cases, gambling may have a severe impact on specific individuals and their families. Problem gamblers do not have a generic profile and their characteristics vary significantly from person to person. Additionally, problem gambling can often go undetected for some time as, unlike excessive alcohol, most symptoms are not immediately obvious.

IPART notes that there are degrees of severity in assessing problem gambling, from people with mild or temporary problems to those with severe and chronic difficulties. Some problem gamblers have a relatively stable problem, but others find that their problem gradually worsens. Counsellors often scale the severity of gambling addiction into three categories; problem gamblers, compulsive gamblers and pathological gamblers.¹⁵ But most problem gamblers are able to deal with their problem through a variety of means including, assistance from their family, professional counselling or through self-help groups.

Experts examining problem gambling are divided on the cause of the problem with numerous different theories attempt to define its nature and cause.¹⁶ Two broad schools of thought view problem gambling as either;

1. a behavioural problem: controlled gambling evolves into an addiction. Gambling is a maladaptive behaviour or a pattern of dependence which can be unlearned, or;
2. a mental illness: problem gambling is a pathological disorder or an psychological illness

Problem gambling can often place pressure on other areas of life. Health problems, job loss, crime, domestic violence, poverty, homelessness, family break-ups and even suicide have been reported as problems possibly arising from gambling. The diversity of severity of problem gambling and the connection of problem gambling to other problems may explain much of the variation in estimates on the extent of problem gaming.

¹³ Professor Mark Dickerson, University of Western Sydney, submission to IPART, August 1998, p 3.

¹⁴ The estimate of 0.5% is from Casino Community Benefit Fund Study No 2 Update 1998, p 11. The estimate of 3% is from Victorian Casino and Gaming Authority, *Definition and Incidence of Problem Gambling, Including the Socio-economic Distribution of Gamblers*, August 1997, p 2.

¹⁵ Experts such as Dr Michael Walker, Gambling Research Unit, University of Sydney.

¹⁶ Alex Blaszczynski and Derrick Silove, University of NSW, Cognitive and Behavioural Therapies for Pathological Gambling, *Journal of Gambling Studies*, Vol 11 (2).

2 THE GAMING INDUSTRY IN NSW

The NSW population incurred net losses of over \$3.6b in gaming during 1997/98.¹⁷ Net loss refers to the amount gambled less any winnings. Approximately 27% of this net loss is returned to the NSW people through the duty on gaming. Because winnings are often repeatedly gambled again, the turnover of the industry is recorded as a far higher number at over \$32b in 1997/98.¹⁸ Gaming machines are the favoured mode of gaming accounting for 79.8% of net losses. The large range of NSW Lotteries products accounts for 10.7% of gaming net losses, while 7% is lost on casino table games and 2.7% is lost playing Keno.¹⁹

Table 1 The main forms of gaming in NSW

Gaming in NSW	Clubs	Hotels	Casino	Keno	NSW Lotteries	Total
Total venues	1,512	2,031	1	*	1,712	5,256
Venues operating gaming (30/6/98)	1,415	1,807	1	941	1,712	4,935
Max. No. of gaming machines per venue	Unlimited	30	1,500	*	*	*
Max No. of table games permitted	Nil	Nil	200	*	*	200
Total gaming machines operating (3/7/98)	67,042	24,901	1,500	*	*	93,443
Ave No. machines per gaming venue	47.4	13.8	1,500	*	*	1,561
State gaming duty paid \$m (1997/98)	520.2	151.7	108.2	17.8	271.9	1,070
Ave duty per gaming venue (\$'000)	367.6	84.0	108,220.0	18.9	158.8	*
Ave duty per gaming machine (\$'000)	7.8	6.1	20.0	*	*	7.5
Ave gaming net loss per adult \$ (1996/97)	377.22	158.43	77.93	19.44	75.86	708.88
Estimated NSW gaming market share	53.2%	22.3%	11.0%	2.7%	10.7%	100.0%

Sources: Venue information from Department of Gaming and Racing. Duty information from NSW Treasury Submission to IPART, p 3.

Net loss information from the Tasmanian Gaming Commission, Australian Gambling Statistics, Table 8.

Notes: * not applicable.

1. Keno venues are not included in the total number of venues as Keno is operated within clubs.
2. Star City state gaming duty total excludes payments to the Casino Community Benefit Fund of approx. \$10.9m.
3. NSW Lotteries paid a dividend of \$8.9m and a tax equivalent payment of \$12.1m in addition to gaming duty.
4. Estimate based on 28% of Star City gaming duty being from gaming machines.
5. The average net loss from all (non-casino) gaming machines was \$535.65 in 1996/97. The estimate assumes equal payout ratios and is based on hotel gaming machine turnover is approximately 30% of combined hotel and club gaming machine turnover as reported in AHA Submission to IPART August 1998, p 28.
6. Different duties rates apply the casino, hotels and registered clubs.

Table 1 contains several notable features.

- Registered clubs currently hold the leading position in terms of gaming market share.
- Gaming machines (including those at the casino) account for almost 80% of the funds lost in gaming by NSW adults. The 91,943 gaming machines in hotels and clubs raised \$672m in duty (\$7,309 per machine). By contrast, the 27,100 gaming machines in Victorian pubs and clubs raised \$551.7m in duty or (\$20,360 per machine).²⁰
- Although NSW Lotteries holds only 10.7% of the gaming market it contributes 25.4% of total gaming taxes.

¹⁷ IPART approximation based on Tasmanian Gaming Commission, Australian Gambling Statistics 1972/73-1996/97, Table 4 reporting NSW gaming expenditure of \$3.29b for 1996/97 and 9.5% growth in expenditure based on forecast growth in duty by NSW Treasury, submission to IPART, August 1998, p 3.

¹⁸ IPART approximation based on Tasmanian Gaming Commission, Australian Gambling Statistics 1972-73 to 1996/97, Table 3 which reports NSW gaming turnover of \$29.4b for 1996/97 and 9.5% growth in expenditure based on forecast growth in duty by NSW Treasury, submission to IPART, August 1998, p 3.

¹⁹ Tasmanian Gaming Commission, Australian Gambling Statistics, and submissions from NSW Treasury and Star City.

²⁰ Victorian Casino and Gaming Authority Annual Report 1997/98.

- Almost 90% of hotels and 94% of clubs in NSW operate machine gaming. This is in contrast to Victoria where only 26% of hotels and 20% of clubs have been offered machine gaming. The Victorian Government has imposed a statewide limit on the maximum number of machines (27,500), and has two approved machine providers who offer machines only to selected venues based mainly on potential profitability.
- Club Keno operates in 61.6% of NSW clubs. Keno holds a small gaming market share (2.7%) and accounts for an even smaller proportion of state gaming duty (1.7%).
- With more freedom to the number of machines they operate, clubs have chosen to use an average of 1.6 times (47.4 machines) more machines than a hotels maximum operating limit (30 machine). Of note is that the median number of machines per hotel is 11 and the median for registered clubs is 21. This confirms that the very large clubs with several hundred machines lift the average whilst a more uniform distribution in hotels is present due to limits on maximum machine numbers.²¹
- Star City has 1.7% of gaming machines yet generates approximately 4.2% of gaming machine duty. This reflects many factors including higher patronage, 24 hour trading, greater average spend per player and the payment of higher duty rates than clubs.
- The estimated average loss in gaming per adult NSW resident is overstated by losses incurred by interstate and overseas residents. However, this is partly offset by NSW residents gaming in other jurisdictions.
- Between 1976/77 and 1996/97 the average annual loss by NSW households in gaming has risen from 2.12% to 2.79% of household disposable income.²² Over the same period the average loss in wagering fell from 0.72% to 0.57% of household disposable income. The national average for gaming expenditure as a percentage of household disposable income is 2.52% and varies from a low of 1.71% in Tasmania to highs of 2.71% in Victoria and 2.79% in NSW.²³
- The median loss from gaming is likely to be far lower as a small proportion of big gamblers raise the average. Estimating the median loss requires considerable survey work which has not been undertaken in NSW. New Zealand studies estimate the median loss to gaming is around one third of the average.²⁴ Application of this ratio to NSW would see the NSW average gaming loss per adult of \$709 per year equate to a median loss of around \$230.

2.1 The main forms of gaming in NSW

2.1.1 Casino gaming

Star City Holdings Limited operates the only legal casino in NSW at Pyrmont on the western fringe of the Sydney central business district. Star City has a 99 year licence to operate a casino in NSW including exclusive rights for 12 years (expiring September 2007) from the

²¹ In 1996/97 the Top 200 clubs held 53% of gaming machines and accounted for 74% of club gaming machine duty. The Top 200 hotels held 27% of gaming machines and accounted for 56% of hotel gaming machine duty.

²² Tasmanian Gaming Commission, Australian Gaming Statistics 1996/97, Table 123.

²³ Ibid, Table 133.

²⁴ New Zealand Department of Internal Affairs, *People's Participation in and Attitudes Toward Gambling*, March 1996 p 2.

opening of the temporary casino (13 September 1995).²⁵ Star City paid an upfront licence fee of \$376m to the NSW Government for these rights.²⁶

The permanent casino opened in November 1997 and operates 200 tables and 1,500 gaming machines. The 200 table games equates to approximately 1,400 playing spaces. Star City receives an average of 28,000 visitors per day. This rises to 60,000 per day during peak holiday periods. Star City surveys have found 60% of visitors are male and 40% are female, 39% are broadly from Asian backgrounds and 61% are non-Asian. The surveys also found that 29% of visitors are tourists with 10% of visitors from interstate, 9% are from overseas and 10% from regional NSW.²⁷

Star City operates a loyalty scheme rewarding patrons with high turnover with discounted casino meals, shows, accommodation and the like. The loyalty scheme, known as the Star Card, has approximately 300,000 members which is approximately one in every 16 NSW adults.

Star City also operates a members only gaming facility for larger spenders, called the Endeavour Room. The minimum bet in the Endeavour Room is \$50, membership is by invitation only, and to date 13,000 people have joined. On 6 October 1998 the NSW Government announced an agreement to reduce the tax rate applicable to foreign high rollers (staking \$75,000 or more) from the standard rate of 23% to 10% in line with the comparable rate for the Crown Casino in Melbourne. However, the Government imposed a minimum tax from this market segment of \$6m per annum.

Since the casino's opening, licence fees and state taxes of over \$650m have been paid to the NSW Government.²⁸ Of this \$20m has been directed by the Government into the Casino Community Benefit Fund. State duty in 1997/98 totalled over \$119m, of which the Government directed \$11m into the benefit fund. State casino duty is forecast to rise to \$129.3m in 1998/99.²⁹

Star City employs 3,400 staff (full time equivalent basis). Over 2,600 of these employees are individually licensed by the Casino Control Authority.

Since the casino commenced trading in 1995, approximately 410 former (or prospective) patrons have been granted self-exclusion from Star City, whilst around 900 other patrons have been excluded from entering the casino for other reasons (such as cheating, disorderly behaviour and leaving minors unattended).³⁰

2.1.2 Machine gaming

Machine gaming was legalised in NSW registered clubs in 1956. At September 1998 NSW had over 93,400 gaming machines. Registered clubs operate 71.8% of these machines, 26.6% are in hotels and 1.6% are at the casino.³¹ NSW has over 10% of the world's gaming machines and 63% of Australian gaming machines. Figure 1 illustrates that between June

²⁵ The temporary casino (Sydney Harbour Casino) operated for 2 years and 2 months on wharves 12 and 13 at Pyrmont Bay.

²⁶ NSW Treasury submission to IPART, August 1998, p 3.

²⁷ Star City submission to the Productivity Commission Inquiry Into Australia's Gambling Industries, October 1998, p 8 and p 13.

²⁸ Star City submission to IPART, August 1998, p 1.

²⁹ NSW Treasury submission to IPART, August 1998, pp 3-5.

³⁰ Self-exclusion and exclusion are explained and discussed in Section 5.9 of this report.

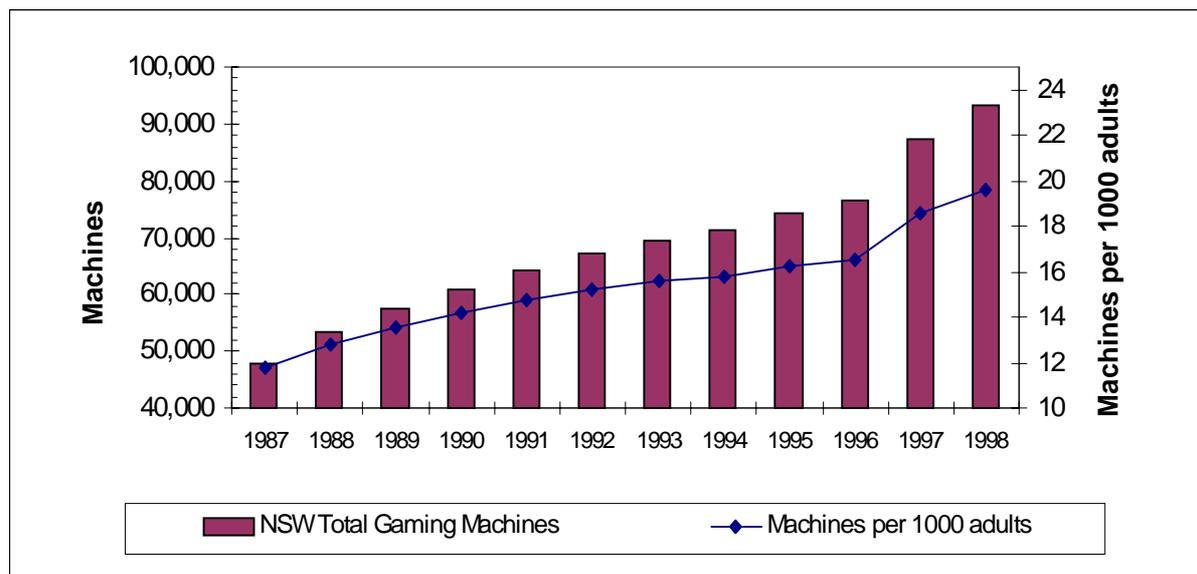
³¹ NSW Department of Gaming and Racing, Gaming Analysis, September 1998.

1987 and June 1998, the total number of gaming machines in NSW grew by 94.7% which is 5.6 times above the growth in the adult population (16.8%). This means gaming machine accessibility in NSW increased by 54% from 12.8 machines per 1000 adults in 1987 to 19.7 machines per 1000 adults in 1998.

There are three main types of gaming machine:

1. **Poker machines:** usually features a set of electronic spinning reels which, when landing on specific combinations, wins the player a prize in credits. Approximately 95% of gaming machines are poker machines. The capital cost of a new poker machine is approximately \$15,000.
2. **Approved Amusement Devices (AADs):** primarily card machines which replicate poker. AADs are predominantly operated in hotels and constitute approximately 5% of total gaming machines. Venue operators report that AADs have had declining patron appeal and most are gradually being replaced by or converted into poker machines.³²
3. **Multi-terminal gaming machines (MTGMs):** from March 1997 are permitted to operate in clubs and Star City only. Approximately 170 are in operation in NSW clubs. Each MTGM features between 8 and 32 playing stations. The main MTGM games available are horse racing, black jack and roulette. The latter two games are computer replications of casino table games. The take-up rate of MTGMs is slow as they have higher payout ratios, incur greater tax and have a high capital cost, starting at \$100,000.

Figure 1 Gaming Machines in NSW



Sources: NSW Department of Gaming and Racing and Tasmanian Gaming Commission.

Legislation requires that all gaming machines operating in NSW return at least 85% of funds to the player. In practice, most player return rates range between 87% and 94% with the larger hotels and clubs operating at an average return of 89.7% and 90.7% respectively.³³

³² AADs were introduced exclusively to hotels in 1984. From April 1997 hotels were permitted to operate poker machines. With the approval of the LAB, AADs can be converted or retro-fitted into poker machines by replacing the face of the machine and the electronic chip at a cost of around \$1,000 per machine.

³³ Department of Gaming and Racing, Gaming Analysis, 1996/97, p 34 and p 86. Larger hotels and clubs are defined as 'Top 200' ranked by gaming machine profit per venue.

LAB policy requires all NSW gaming machines comply with the X-Standard³⁴ by 1 January 2001. Consequently, all NSW gaming machine venues are completing a gradual transition to having only X-standard machines. In September 1998, 60.2% of NSW machines were X-Standard. Hotels (59.5% X) and clubs (60.4% X) are almost equally advanced in converting to the new protocol.

Currently, gaming machines are restricted to a maximum bet of \$10 per game and a maximum jackpot of \$10,000. However, the MTGMs have a higher maximum bet limit of \$100 per game and can offer jackpots of up to \$100,000.

The NSW TAB and central monitoring of gaming machines

The NSW Government has legislated that all gaming machines must be connected to a central monitoring system (CMS) by January 1, 2001. The CMS connects all machines to a central computer which will collate and process data, including the assessment of duty, the authorisation of changes to machines configurations, and the testing of machine integrity. CMS will recognise any unauthorised machines connected to it,³⁵ and will enable the government to electronically debit gaming duty payable from venue operators' bank accounts. This will greatly streamline revenue assessment and collection procedures. A 15 year exclusive licence to operate the CMS was granted to the TAB Ltd³⁶ in April 1998 for the sum of \$13m. Gaming machine operators will pay TAB \$26.10 per machine per month for CMS services.³⁷ This equates to approximately \$267,000 per annum for the largest NSW club, Penrith Panthers.

In April 1998, TAB was granted two 15 year exclusive licences to conduct statewide linked jackpot games (TABLINK) for gaming machines in hotels and in registered clubs at a total cost of \$17m. Venue participation in TABLINK will be voluntary. The TAB will charge participating venues a fee expected to be less than 15% of TABLINK gaming revenue.³⁸

TAB has also acquired an investment license enabling it to own, supply and finance gaming machines to hotels. Additionally, the NSW TAB is developing a numbers game linked across some NSW hotels.³⁹

A priority for the Department of Gaming and Racing should be implementation of CMS without delay, to ensure the integrity of gaming machines and to provide certainty that duty is not avoided. Submissions from the representatives of gaming machine operators expressed concerns regarding TAB having interests in gaming and the absence of a competitive market for CMS services.⁴⁰ TAB is the sole operator of CMS but also can participate in machine gaming. Government needs to ensure that the ringfencing proposed by the TAB is adequate.

IPART notes that, in other states, CMS has multiple providers giving venues a choice and competition they find desirable. In a multiple CMS provider environment, some of the CMS providers also provide gaming such as Tabcorp and Tatterstalls in Queensland and Victoria.

³⁴ X-Standard is a protocol for gaming machine security.

³⁵ LAB submission to IPART, August 1998, p 5.

³⁶ The NSW TAB was privatised in June 1998 and is the largest gambling provider in NSW with a wagering turnover of over \$3.9b in 1997/98 which represents around 12% of total gambling turnover in NSW.

³⁷ NSW TAB Share Offer Document May 1998, pp 32-33 and p 58.

³⁸ NSW TAB Share Offer Document May 1998, pp 32-33 and p 58.

³⁹ Ibid.

⁴⁰ submissions to IPART including the AHA p 32.

Recommendation 2.1

The Tribunal recommends that Government investigate the adequacy of TAB's ringfencing of CMS activities from TAB's other gaming activities. Details of the results of this investigation should be available to gaming providers.

2.1.3 Club Keno

Club Keno (Keno) commenced operations in September 1991 and is licensed under the NSW Public Lotteries Act. Keno is a joint venture between AWA and Club Keno Holdings (a non-profit subsidiary of the Registered Clubs Association). Keno is a lottery style game of chance where 20 numbered balls are randomly selected from a field of 80 balls in games held every three and a half minutes between 9am and 12pm (1am close on Friday and Saturday).⁴¹ The Keno draw is conducted at AWA's offices in North Ryde under the permanent on-site supervision of the Keno Branch of the Director of Casino Surveillance.

An integral part of Keno's customer attraction is offering large jackpot prizes. The largest single payout to date is \$7.2m won in 1994/95.⁴² Keno participants play the game by completing a ticket. A license condition requires that Keno return an average of 75% of turnover to the player.

Keno is played in 61% of NSW clubs and will also be introduced to Star City by the end of 1998. Of note is the large expansion in the number of clubs offering Keno. Between 1995 and 1998 Keno venues have risen by 369% from 199 to 933 sites.⁴³ Plans are also being developed to expand a Keno-style game into hotels. This could add up to 1,800 additional Keno venues.⁴⁴ **IPART believes that such an expansion in availability is significant and merits an evaluation of the social and economic impacts. This evaluation should include an element of public consultation.**

Keno represents 1.2% of NSW gaming turnover, 2.7% of NSW gaming expenditure and 1.7% of gaming duty paid to the government. Turnover for 1997/98 was \$384.2m of which \$287.4m was paid in prizes and \$17.8m in government duty. Keno has unique duty arrangements whereby Keno pays 4.5% of annual turnover less than \$350m and 6% of turnover over \$350m. Individual clubs do not pay state duty on their Keno profit.⁴⁵

Clubs are paid a standard 10% of turnover as their commission for selling the Keno product. Average Keno turnover per club is \$412,000, providing prizes to patrons of \$309,000, commission to the club of \$41,200, duty to the government of \$19,100 and gross profit to Keno of \$42,700 (or a 10.36% gross margin). Hence, for an average club, operating a Keno outlet produces around the same profit as a single gaming machine.⁴⁶

In April 1997 Keno introduced several variations on the traditional game known as 'roulette', 'heads or tails' and 'lucky last'. These have had a positive impact on turnover for an otherwise mature product.

⁴¹ AWA submission to IPART, August 1998, p 4.

⁴² Department of Gaming and Racing, Annual Report 1996/97, p 49.

⁴³ Uniting Church Board for Social Responsibility, submission to August 1998, p 3.

⁴⁴ See Australian Financial Review, 11 November 1998, p 23.

⁴⁵ AWA submission to IPART, August 1998 p 5, Department of Gaming and Racing Gaming Analysis, 1996/97 p 108 and NSW Treasury submission to IPART, August 1998 p 3.

⁴⁶ AWA submission to IPART August 1998, p 5.

The AWA submission reports that amongst occasional players, Keno is seen as a 'soft' gaming option as play is slower and therefore cheaper than poker machines and the game is seen as offering players a relative sense of control over the gaming process which adds to its appeal.⁴⁷

2.1.4 Lottery products

NSW Lotteries Corporation is a state owned corporation with licenses to conduct a range of public lottery products. NSW Lotteries is controlled by a government appointed 6-member Board comprising the Chief Executive and five board members. NSW Lotteries holds exclusive licences to conduct Lotto and OZ Lotto, Powerball, Soccer Pools, Draw Lottery Games and Instant Lotteries in NSW. All these licences expire in 2007.

The mission of NSW Lotteries is to develop, market and manage lottery products and related gaming services with integrity to maximise government revenue for community benefit. The principal objectives of NSW Lotteries are summarised as follows:⁴⁸

1. to successfully develop, promote, conduct and participate in lawful forms of gambling
2. to be a successful business
3. to exhibit a sense of social responsibility by having regard to community interests.

Being state government owned, NSW Lotteries is unique in that it returns all revenue, in one form or another, to the people of NSW as prizes to winners; commissions to agents, wages to employees or as dividends paid to the Government of NSW.

NSW Lotteries commenced operation in 1931 and in this time has paid almost \$3.5b to New South Wales Treasury. An average of 28% of all NSW Lotteries turnover is paid as duty to the NSW Government. NSW Lotteries also pays the NSW Government an annual tax equivalent payment (36% of operating profit) and a dividend (60% of operating profit after tax).

The gaming market share of NSW Lotteries fell from 18.3% in 1987/88 to 10.6% in 1996/97.⁴⁹ Real average expenditure per adult rose by only 7% over this period. In an attempt to arrest the decline in market share, NSW Lotteries has introduced four new products since February 1994 (Oz Lotto, Lotto Strike, Powerball and Lucky 7). NSW Lotteries has a 'Players Club' which has over 1.2m members, a quarter of the NSW adult population.⁵⁰ Lotto remains the 'flagship' product, accounting for 63% of total sales forecast to be \$987m in 1997/98.⁵¹

Surveys have found that NSW Lotteries' products are the most popular form of gambling for both men and women.⁵² NSW Lotteries believes its products are 'soft gambling'.⁵³ This view is based on a belief that their products are less attractive to problem gamblers as the chances are random, very little player skill is involved, games are non-continuous, the size of potential prizes is not proportionate with the amount 'invested' and sales occur in venues

⁴⁷ Ibid.

⁴⁸ NSW lotteries, Annual Report 1996/97 p 1.

⁴⁹ Tasmanian Gaming Commission, Australian Gaming Statistics 1996/97, Table 8.

⁵⁰ NSW Lotteries Annual Report 1996/97 p 5.

⁵¹ NSW lotteries, Annual Report 1996/97 p 15 and p 59.

⁵² See CCBF Study No 2, June 1998, p v.

⁵³ NSW Lotteries submission to IPART, August 1998, p 11.

which is acceptable to virtually the entire community.⁵⁴ Gaming machines are also offer random chances and are slow skill in nature.

Potential competitors with new products can approach the Minister with a business plan of the concept and seek to have the product licenced. Club Keno successfully did this in 1991.

NSW Lotteries has 240 employees with a further 2,000 people directly employed by agents.⁵⁵

Direct sales of NSW Lottery products can be undertaken lawfully in NSW and the ACT only by the 1,712 authorised agents appointed by NSW Lotteries. NSW Lotteries competes with Tatterstalls in the ACT with duty from both being paid to the ACT government. Approximately 85% of authorised agents are newsagents, the remainder being a variety of retail stores such as chemists.

NSW Lotteries created a degree of controversy when a newspaper article reported that it was considering the sale of its products at supermarkets and similar retail outlets.⁵⁶ Also of note is recent expansion to availability in other jurisdictions such as Tatterstalls selling lottery products on the Internet and the Australian Lottery Company (Northern Territories licensed lottery provider) offering products by mail order. **IPART believes that such expansions in lottery availability are substantial and merits an evaluation of the social and economic impacts. This evaluation should include an element of public consultation.**

2.1.5 Internet gaming

Although not specifically included in the terms of reference for this inquiry, IPART believes that Internet gaming requires urgent and detailed consideration by government. Submissions to this Inquiry from a variety of sources shared this view.⁵⁷

The main concerns of submissions in relation to Internet gaming are;

- an inherent inability to prevent minors participating
- the absence of mechanisms for dispute resolution and recourse
- the susceptibility of players to unscrupulous operators
- the likely utilisation of credit for gaming.

The United States Federal Government enacted legislation in July 1998 to prohibit the use or provision of most forms of gambling on the Internet.⁵⁸ Critics of this legislation claim it is unenforceable.

The Queensland Government has pursued a different approach, and will soon issue a limited number of licences to conduct virtual casino gaming on the Internet. This approach is based on a realisation that a prohibition is unlikely to be enforceable and that many Australian residents would prefer to utilise a locally based licensed operator rather than an

⁵⁴ NSW Lotteries Submission to IPART August 1998, p 6.

⁵⁵ NSW Lotteries Submission to IPART August 1998, p 3.

⁵⁶ As reported in the Sun Herald 12 July 1998.

⁵⁷ Submissions including PIAC, NCOSS, Star City, the Australian Gaming Machine Manufacturers Association, Shoalhaven Parents & Partners of Problem Gamblers, several individuals and the Registered Clubs Association.

⁵⁸ *Internet Gambling Prohibition Act (1998), USA.*

unknown operator from, say, the Carribean. The Northern Territory and Tasmania have also pursued the approach of licensing a few local operators.

The debate on how to regulate Internet gaming and or whether Internet gaming can be successfully regulated is complex, polarised, and requires urgent and detailed consideration.

Since 1996, the Department of Gaming and Racing has been participating in a national regulator's working party which has examined the regulatory and social implications of interactive gambling. The May 1997 national conference of all gaming Ministers agreed to release a draft national model for the regulation of home gambling. A draft model was released to enable further consultation and to determine each state's position on the draft model. The draft national model proposes a national cooperative approach to the regulation of home interactive gambling by all state and territory governments, delivered by regulatory bodies in each state and territory. Adoption of the draft model by the individual state or territory does not necessarily mean that the jurisdiction will actively license interactive home gambling service providers. The draft model outlines standards and principles for each state and territory's licensing scheme and operational controls, particularly in relation to the approval of games.

Recommendation 2.2

IPART recommends that the current Productivity Commission's Inquiry into Gambling Activities in Australia evaluate the draft model and consider whether further development is needed to implement a national policy on this issue.

3 THE CURRENT SYSTEM OF REGULATION FOR GAMING IN NSW

This section provides a brief overview of the current regulatory system utilised in NSW.

The Department of Gaming and Racing

The Department of Gaming and Racing (DGR) is the primary regulatory body for gaming in NSW. The DGR was established in April 1995. The DGR assumed the functions of the former Chief Secretary's Department and the Office of Racing of the former Department of Sport, Recreation and Racing.

The DGR is responsible for the proper conduct and balanced development, in the public interest, of the liquor, gaming, racing and charity industries in NSW.

The DGR has five divisions which report to the Director-General:⁵⁹

1. Director, Casino Surveillance (a statutory appointment).
2. Director, Compliance (who is also the Acting Director of Liquor and Gaming - a statutory appointment).
3. Director, Policy and Development.
4. Director, Revenue and Resource Management.
5. Director, Racing and Charities.

Statutory appointments can only be removed from office by the Governor in Council. Other Directors can be removed from office by the Director General. The provision for statutory appointments was to enable these position holders to appropriately undertake their duties with greater security of tenure.

The NSW Police Service

The NSW Police Service performs a significant role in the enforcement of gaming regulations. Without access to and support from the Police Service, government regulators and control bodies operating in gaming could not function effectively. The key functions performed by the Police Service in relation to gaming are:

- a variety of probity investigations for casino gaming employees, club managers, hotel licensees, gaming manufacturers, gaming machine dealers, entities seeking casino controlled contracts etc
- enforcement of the Liquor Act and the Registered Clubs Act, mainly relating to enforcing bans on minors gaming, minors being on licensed premises, monitoring operating hours and ensuring the responsible service of alcohol
- investigations of criminal activity occurring in and around the casino, clubs and hotels and any subsequent prosecutions
- the preparation of submissions for liquor licence applications and on enforcement prosecutions
- the Police Commissioner can exclude persons from the casino under the CCA Act.

⁵⁹ Department of Gaming and Racing, Annual Report 1996/97 p 8.

3.2 Casino regulation

To achieve a high level of integrity in the regulation of casino gaming in NSW the Government of the day adopted a system which originated in New Jersey (USA). It features checks and balances to minimise the potential for corruption in regulation. Consequently, casino regulation in NSW is performed by two distinctly separate bodies: the Casino Control Authority (CCA) and the Director of Casino Surveillance (DCS). The CCA is the control body and the DCS is the regulatory body. A control body is one that licenses or authorises an activity, approves gaming equipment, sets operational policies including rules of each game and in the event of malpractice is empowered to hear disciplinary matters and direct that the activity ceases. A regulatory body undertakes the day-to-day functions such as monitoring and inspecting, evaluating gaming machines, objecting to license applications, enforcement actions, and ensuring the receipt of duty.

The relationship between these two bodies is often described as the judge (CCA) and the policeman (DCS). Simplistically, this separation of powers creates a relationship known as 'people watching people, watching people'. The use of two separate bodies was due to:

- The concentration of all regulatory authority in a single agency could be dangerous in an area as sensitive as casino gaming.
- By creating the CCA as an independent, impartial body vested with full quasi-judicial authority, the investigative and prosecution functions could remain in the DCS without offending the concepts of fairness or due process. Hence, the scenario of one agency serving as investigator, prosecutor, and judge was avoided.

Star City must comply with other regulations such as the Cash Transactions Reporting Act. One of the objectives of this Act is to limit the potential for criminals to 'launder' money by requiring the reporting of all transactions over \$10,000 to the Australian Transactions Reporting and Analysis Centre.⁶⁰

The Casino Control Authority (CCA)

The CCA was established by the *Casino Control Act (1992)* (CCA Act) in September 1992. The CCA is a statutory authority and is subject to very limited direction by the Minister. Directions must always be in writing, and directions relating to public interest or integrity issues must also be published in the NSW Government Gazette and tabled in Parliament. The CCA is controlled by a five member board. The Chief Executive officer (CEO) of the CCA has a performance agreement with the Minister, not the CCA Board. The CCA employs 19 equivalent full time staff (EFTs).

The objectives of the CCA⁶¹ are to maintain and administer systems for licensing, supervision and control of a casino, for the purpose of,

- ensuring that casino management and operations remain free from criminal influence
- ensuring that gaming in the casino is conducted honestly
- promoting tourism, employment and economic development generally in the State
- containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.

⁶⁰ Star City submission to the Productivity Commission Inquiry Into Australia's Gambling Industries, October 1998, p 8 and p 32.

⁶¹ as set out in Section 140 of the CCA Act.

The CCAs functions are defined under Section 141 of the CCA Act and are summarised as:

- functions necessary to complete its objectives or as conferred under the CCA Act
- to consider and determine applications for other licences under the CCA Act
- to keep under constant review all matters connected with the casino its operators and associates of the operators
- to review the DCS and report to the Minister on the efficiency and effectiveness with which exercises the functions of the Director under the Act
- to advise the Minister on matters relating to the CCA Act
- to approve gaming equipment, the games to be played at the casino and the rules of these games
- to conduct and fund research into matters concerning casinos.

The CCA also has overall responsibility for ensuring the accurate payment of duty to the NSW Government by Star City. The CCA is required to ensure that the correct amount of duty for the casino is paid in a weekly electronic transfer of funds to the NSW Treasury. The CCA has compiled documentation of the procedures and internal controls of the Star City revenue system from which a weekly statement of gross gaming revenue is produced.

Section 36 of the CCA Act requires that larger contracts (over \$200,000 per annum) for the supply of goods or services to a casino be regarded as a controlled contract. All gaming equipment contracts are regarded as control contracts. The company seeking to supply Star City (and its associates) must gain approval of the CCA, which performs a strict probity check prior to approving the commencement of supply.⁶² The objective of this process is to prevent criminal activity and organised crime from infiltrating into casino operations.

Section 31 of the CCA Act requires the CCA every three years to investigate and form an opinion as to whether or not:

- the casino operator is a suitable person to continue to give effect to the casino licence
- it is in the public interest that the casino licence should continue in force.

Box 1 contains a summary of the first s31 investigation.

The CCA is responsible for issuing and monitoring the Star City liquor licence and other liquor licences within the casino complex. This is in contrast with the rest of NSW which has liquor licensing undertaken by the Licensing Court and the Liquor Administration Board (LAB), yet very similar regulatory practices are followed.

⁶² Star City submission to the Productivity Commission Inquiry Into Australia's Gambling Industries, October 1998, p 27.

Box 1

The McClellan Report - An Investigation of the Star City Casino Licence.

Section 31 of the CCA Act requires an investigation of the casino licence within every 3 year period from its original grant. The licence now held by Star City was granted in December 1994. The CCA commissioned Peter McClellan QC to conduct this inquiry which was completed in December 1997.

The key findings of the McClellan Report were that the casino operator

1. has completed the casino and associated facilities to an appropriate level of quality,
2. is of sound and stable financial background. The casino operator has, or is able to obtain, suitable and adequate financial resource to ensure the viability of the casino,
3. has arranged a satisfactory ownership, trust or corporate structure,
4. has or is able to obtain the services of management with sufficient expertise in casino operation,
5. has sufficient business ability to establish and maintain a successful casino,
6. has complied with its obligations under the CCA Act, the licence and agreements with the CCA,
7. and each close associate is of good repute having regard to character, honesty and integrity,
8. does not have any association with any persons or body who is not of good repute,
9. including the owners, associates and management are suitable persons to act in that capacity,
10. should closely monitor air quality in the casino to ensure it meets agreed standards,
11. should closely monitor the movement of minors around the complex, in particular any attempts to gain access to gaming and liquor licensed areas,
12. should closely monitor illegal and undesirable activity in Pymont and Ultimo. In particular prohibition of the escort, prostitution and pawn shop industries should be examined.

The other main findings of the McClellan Report were that:

- the impact or potential impact on casino patrons and their families are not such as would warrant the casino licence being revoked on grounds of public interest,
- the CCA should complete its review of procedures regarding cheque cashing,
- the impact of the casino on tourism, employment and economic development may be substantial. The possible adverse impact of the casino on other gaming and wagering sectors and on retail and related industries may not be substantial,
- appropriate measures are in place to discourage loan sharking and other undesirable activities,
- the NSW Government should approach the governments of other states to try to obtain consistency in the exclusion of undesirable people from casinos.
- all Australian casino regulators need to consider whether or not action needs to be taken in connection with high value chips being taken out of casinos.
- consideration be given to transferring responsibility for administrative support of the Director of Casino Surveillance from the Department of Gaming and Racing to the CCA.

Source: NSW CCA, Report of Investigation Pursuant to Section 31 of the NSW CCA Act 1992, Sydney December 1997.

The Director Casino Surveillance (DCS)

Effectively, the DCS undertakes enforcement functions at the casino. The DCS is a division of the DGR which is responsible for:

- the 24 hour supervision and inspection of operations in the casino (Star City)
- the verification of casino gross gaming revenue and government duty
- the investigation of applicants for casino employee licences
- enforcement of liquor licence conditions at Star City and within the casino complex
- the detection and prosecution of offences under the CCA Act
- the monitoring the game of Club Keno in NSW.

The DCS has a performance agreement with the Director-General of the Department of Gaming and Racing.

The DCS has liaised closely with the casino operator to ensure that the operator complies with the terms of its liquor licence particularly in relation to staff training and its requirements regarding the 'responsible service of alcohol'.

The DCS has 71 staff in total and is structured into four main operational branches; Inspection (38 EFTs), audit (9 EFTs), licensing (9 EFTs) and Keno (8 EFTs).

The Audit Office Performance Audit of Casino Surveillance

The NSW Audit Office completed a Performance Audit of Casino Surveillance in June 1998. The Minister for Gaming and Racing, CCA, the Department of Gaming and Racing and the Director of Casino Surveillance each expressed disagreement and significant concerns with the findings and recommendations of the Performance Audit. These concerns are presented in formal responses which are contained within the Audit Office Report and need to be considered when evaluating the recommendations. A summary of the recommendations and findings of the Audit Office Report is contained in Box 2.

Box 2 Audit Office Report on Casino Surveillance

Under Section 141 of the CCA Act, the CCA has the function to review and report to the Minister for Racing and Gaming on the efficiency and effectiveness with which the Director of Casino Surveillance (DCS) functions under the CCA Act. At the request of the Department of Gaming and Racing, the Audit Office reviewed the efficiency and effectiveness of the organisation and management of casino surveillance undertaken pursuant to the Casino Control Act, in June 1998.

The Minister for Gaming and Racing, CCA, the Department of Gaming and Racing and the Director of Casino Surveillance each expressed major disagreements and significant concerns with the findings and recommendations of the Audit Office Report. These concerns are presented in formal responses which are contained within the Audit Office Report.

The Audit Office found that an effective level of cooperation and co-ordination had not been achieved. The 7 key recommendations of the Audit Office to improve efficiency and effectiveness were:

1. **Director Of Casino Surveillance:** The DCS move to a risk based, programmed and systematic approach towards inspection, revenue verification. Investigation resources for surveillance should not be increased until DCS has implemented the efficiency options recommended.
2. **Coordinated surveillance:** The Casino Control Authority (CCA) and DCS establish a protocol and a strategic plan for a coordinated assessment, planning, and delivery of a risk based surveillance of the casino operation. The strategy should address:
 - a joint strategy that will increase reliance on the Internal Control Procedures of the Operator
 - the development of relevant and contemporary skills particularly in the areas of computer technology the effective use of contemporary technologies
 - the development of common information
 - systems for casino surveillance
 - effective electronic access to the Operator's gaming information systems
 - the protocols between the Police Service, DCS and CCA
3. **Accountability:** performance assessment should be amended to provide:
 - a capacity to review the CCA by a Committee of Parliament,
 - a performance agreement between the CCA Board and Minister
 - a performance agreement between the CEO of CCA and the CCA Board
 - a performance agreement between the DCS and the Minister that takes into account the requirements arising out of the protocols established between DCS and CCA.
4. **Performance indicators:** should be developed to cover all key result areas and include quantitative and qualitative targets. Performance indicators should be reported in the Annual Reports of the surveillance agencies
5. **DCS:** table an Annual Report in Parliament through the Minister. Alternatively the DCS should prepare a separate distinguishable report within the Annual Report of the DGR
6. **CCA:** undertake benchmarking of other jurisdictions such as Victoria and Queensland with a view to achieving efficiencies. For example, there may be opportunities to streamline processes through the use of greater delegation between DCS and CCA. CCA, being the agency responsible for setting the control environment, coordinate research directly to support and improve the effectiveness of the casino surveillance function.
7. **Research::** a more transparent and coordinated approach be developed to assist research into casino specific issues and broader issues of public interest such as problem gambling and money laundering through gambling of the proceeds of crime.

Source: NSW Audit Office, Performance Audit Report, Casino Surveillance, as undertaken by the Director of Casino Surveillance and the Casino Control Authority, June 1998. Report available at www.audit.nsw.gov.au

The **main concerns** of The Minister for Gaming and Racing, the Casino Control Authority, the Department of Gaming and Racing and the Director of Casino Surveillance with the Audit Office Performance Audit are each summarised below:

- **Minister for Gaming and Racing (The Hon. J. Face MP):** Currently the CCA CEO has a performance agreement with the Minister. The Audit Office recommends that the CCA Board have an additional performance agreement with the Minister. Whilst this is reasonable, ideally the CEO of the CCA should have one tri-partite performance agreement (between the CCA Chairman and CEO and the Minister). The DCS should not have a performance agreement with the Minister rather than the Director General as recommended by the Audit Office. This is not appropriate as the Director General employs the DCS. The McClellan Report recommendation that the DCS and associated staff be transferred to the CCA was outside the scope of his investigation. This transfer should be considered by the Independent Inquiry recently requested by Parliament.
- **Casino Control Authority (CCA):** The CCA rejects the Audit Office assertion that there has been an ineffective level of co-operation between the CCA and the DCS. The Audit Office did not consider whether the CCA had complied with its objectives defined in the CCA Act nor did the Audit Office review the adequacy of internal control procedures approved by the CCA. The Audit Office identified several areas with potential cost savings, such as the McClellan Report recommendation that the staff of the DCS be employed by the CCA and that the CCA provide administrative support to the DCS. However, the Audit Office failed to address potential cost savings within its recommendations.
- **Department of Gaming and Racing:** The Audit Office report has failed to identify the level and nature of resources necessary for the DCS to effectively undertake its responsibilities. This outcome is disappointing. The Audit Office recommends that the DCS performance agreement be with the Minister, rather than the Director General of the Department. This proposal is not supported and it would be inconsistent with established NSW public sector practices.
- **Director of Casino Surveillance (DCS):** The Audit Office state that the introduction of a more risk based approach by both the CCA and the DCS has been slow. The DCS disagrees with the claim that it has been slow, particularly in terms of a rigorous casino regulatory regime. A reasonable timeframe would be up to two years from the opening of the permanent casino. The Audit Office failed to take into account the prevailing environment at the time of the audit (the transition from the temporary to the permanent casino). The claim that cooperation between the CCA and DCS is ineffective is incorrect. The casino project could not have occurred without close liaison and cooperation. The Audit Office states that the process for the review of internal control procedures is slow, cumbersome and not efficient. The Audit Office did not recognise that the speed of this process is dependent upon the objective of the proposed changes, and the quality and content of the Casino's submission. The Audit Office believe an increased reliance on the casino operator is required and similarly questions the need for permanent direct supervision of the daily soft (non-coin) count. DCS support a greater reliance on the operator yet believes retaining a presence at the soft count is desirable and standard practice in Victoria, Queensland and New Jersey. The Audit Office state that limited action was taken to assess the need for additional resourcing. This statement is incorrect as the DCS completed a detailed review in 1996 and put forward a submission for resources in November 1996, which ultimately led to this Performance Audit.

3.3 Gaming machines

Machine gaming in NSW, outside of the casino, is governed by the *Gaming and Betting Act*, the *Registered Clubs Act* and the *Liquor Act*. Section 72 of the *Liquor Act (1982)* establishes the Liquor Administration Board (LAB). The principal functions of the LAB are the administration of liquor licences, collection of gaming devices duties (clubs and hotels), determination of applications and resolving complaints of undue disturbance of licensed premises and registered clubs. The LAB is also responsible for technical standards for machine gaming in NSW. The LAB can make recommendations to the Minister and may be directed by the Minister to report and recommend upon any matter connected with administration of the Act. All costs notionally incurred by the LAB are met by appropriations to the Department of Racing and Gaming.⁶³

Hotels in NSW are licensed by the Licensing Court to serve alcohol.⁶⁴ The *Liquor Act* governs the sale of liquor in NSW. For registered clubs, the right to sell liquor is an adjunct of obtaining a certificate of registration as a registered club. Both the liquor licence and the certificate of registration gives an entitlement to hold gaming machines within regulatory conditions.

Under a Ministerial Direction the casino is free to operate any gaming machines used in registered clubs and vice versa.

The secretary or chief executive officer of the venue operator must be approved by the Licensing Court. The Licensing Court also is responsible for issuing machine dealers' licences, machine advisers' licences, machine sellers' licences and machine technicians' licences.

Effectively, the Department of Gaming and Racing is the main regulatory body for machine gaming. Its functions include general compliance and enforcement issues, investigating consumer complaints and it also provides policy advice to the Minister.

3.4 Lottery products

The regulatory framework for lottery products is established under the *Public Lotteries Act 1996*. The Department of Gaming and Racing is responsible for enforcing this legislation. It also undertakes investigations of any complaints.

The Department supervises the draws for Lotto and Lotto Strike, undertakes inspections of agencies and monitors agency returns. The Audit Office is the regulatory body for Instant and Draw Lotteries and for the inspection of premises where Instant Lottery tickets are printed.

The Minister is the 'control body' for lottery type products in NSW with responsibility for granting licenses, varying license conditions and taking disciplinary action. The Minister is also responsible for policy issues such as specifying rules for NSW Lotteries games.

⁶³ With the exception of the salaries of the four LAB Board members who are appointed as magistrates and have their costs paid by the Attorney Generals Department.

⁶⁴ under Section 18 of the *Liquor Act (1982)*.

3.5 Keno

The regulatory framework for Keno is established under the *Public Lotteries Act 1996*. The Department of Gaming and Racing through the DCS is responsible for enforcing this legislation. The DCS also investigates complaints related to Keno. The Keno branch of the DCS consists of eight staff who provide 24 hour supervision of all Keno draws at the AWA office at North Ryde.⁶⁵

The Minister is the 'control body' for Keno in NSW with responsibility for granting licences, varying license conditions and taking disciplinary action. The Minister is also responsible for policy issues such as specifying rules for Keno.⁶⁶

3.6 Resources utilised in gaming regulation

One method of assessing the relative efficiency of gaming regulation is to examine the resources or funding required by each of the gaming regulators in relation to the size of the regulatory task performed. However, IPART is aware that efficiency is only one objective of gaming regulation, and that integrity in gaming should not be compromised for the sake of efficiency. The integration of liquor and gaming regulation prevent an accurate estimation of the regulatory costs associated with gaming.

The LAB publishes an annual report where it reports that the Department of Gaming and Racing allocated costs to it of \$10.36m in 1996/97.⁶⁷ This allocation attributes to the LAB over 80% of the costs of each of the Compliance, Revenue and Technology Divisions. The costs of the four magistrates which constitute the Board of the LAB are met by the Attorney Generals Department. The LAB does not receive a budget from NSW Treasury and all costs of the LAB (other than the magistrates) are met by the Department of Gaming and Racing.

The NSW Police Service provides significant enforcement services to gaming regulation (as summarised in section 3). However, as most services are provided as a component of each local command it is difficult to accurately estimate their total cost.

To indicate the size and scope of existing gaming regulation the table below provides statistics on the funding and staff of each of the key divisions. The expenses allocated to the LAB are separately identified to prevent double counting.

Table 2 Resources used in NSW Gaming and Liquor Regulation (1997/98)

	CCA	DCS	DGR Revenue	DGR Compliance	DGR Technology	Total
Total expenses \$m	4.25	5.83	3.74	8.92	2.02	24.76
Government funding* \$m	2.09	5.77	3.70	8.83	1.53	21.92
Average Staff (EFTs)	19	71	42	128	31	291

Sources: NSW Treasury Budget 1998/99 Budget Paper No 3 Vol 1, pp 449-471.

Notes: CCA: Casino Control Authority, DCS: Director Casino Surveillance, DGR Revenue: Division of Liquor and Gaming Machine Revenue, DGR Compliance: Division of Liquor and Gaming Machine Compliance, DGR Technology: A unit of the Compliance Division which tests and evaluates gaming machines. * Net cost of service is used as a proxy for the DCS and the three other DGR Divisions.

⁶⁵ Audit Office, Performance Audit Report, Casino Surveillance as undertaken by the DCS and the CCA, June 1998, p 70.

⁶⁶ See AWA submission to IPART, August 1998, p 4.

⁶⁷ LAB, Annual Report 1996/97, p 75.

The table above illustrates that a significant amount of resources are devoted to gaming regulation. However, the 1997/98 gaming regulatory costs of almost \$24.8m represent only 2.3% of the gaming duty collected (\$1.07b see Table 1).

The Department of Gaming and Racing has three other main divisions: a racing division, a public charities division and a policy and development division which develops policy for gaming in addition to wagering, liquor and charities. The resources of the three divisions are summarised below:

- The racing division has accrual expenses of \$2.96m, a net cost of service of approximately \$2.38m and a staff of 32 (EFT).
- The public charities division has accrual expenses of \$2.14m, a net cost of service of \$2.10m and a staff of 31 (EFT).
- The policy and development division has accrual expenses of \$4.76m, a net cost of service of \$3.88m and 37 (EFT) staff.⁶⁸

⁶⁸ NSW Treasury Budget 1998/99 Budget Paper No 3 Vol 1, pp 453-454. Both expense indicators for the Policy and Development Division were reduced by \$7.598m relating to Governments contribution to the Casino Community Benefit Fund.

4 THE MERIT OF ESTABLISHING A GAMING COMMISSION

The terms of reference for this Inquiry require IPART to investigate:

1. 'need for and form of a gaming commission (or similar) to oversight gaming in NSW;
2. the relationship that should exist between the Casino Control Authority (and other existing licensing or regulatory bodies) and any such gaming commission'

In considering whether a gaming commission (or similar) is required, IPART has to address whether current regulatory arrangements for the gaming industry are meeting regulatory objectives and are operating effectively.

4.1 Why is gaming regulated and what are the objectives of gaming regulation

Gambling is an activity in which the main commodity that changes hands is money. As a consequence, if not properly controlled, it is susceptible to criminal activity, fraud and dishonesty. Individuals can, and in some cases do, become addicted to gambling, with adverse effects for themselves, their families and society in general. All developed countries therefore regulate gambling, on both criminal and social policy grounds, with three common objectives:⁶⁹

- Permitted forms of gambling should be crime-free (both in terms of those who operate them and the players they attract), conducted in accordance with regulation and honest.
- Players should know what to expect and be confident that they will get it and should not be exploited.
- There should be some protection for children and vulnerable persons.

The regulatory objectives of the NSW gaming industry are defined within the various pieces of legislation that cover the gaming industry and are similar to those stated above:

- Keeping the gaming industry free of criminal activity.
- Ensuring that consumers who choose to engage in gaming are protected from unscrupulous and irresponsible conduct.
- Ensuring that gaming is conducted fairly.
- Minimising the social and personal harm associated with participation by consumers in gaming activities.
- Ensuring that an appropriate share of the revenue from the conduct of gaming is paid in taxation for the benefit of the whole community.

As noted earlier, there are limits on the extent to which government can regulate gaming. The limits arise due to competition from interstate and overseas gaming providers, and because of the need to avoid stimulating growth in illegal gambling activities. Nevertheless, government certainly has some scope to insist that gaming should be conducted according to standards acceptable to the community.

⁶⁹ Report of the Gaming Board for Great Britain 1997/8, p 10.

4.2 What gaming regulatory functions must be performed?

In meeting the regulatory objectives for the gaming industry four major regulatory functions must be undertaken:

1. Control functions, which include the granting of licences and authorisation of gaming machines and game types as well the consideration of disciplinary matters.
2. Enforcement functions, which include investigation of complaints, enforcement of consumer protection, and ensuring venue operators are in compliance with the licence conditions and the law.
3. Policy development functions. This function includes formulating policy on access and machine numbers, tax rates, harm minimisation and consumer protection policy, and general community consultation.
4. Revenue assessment and collection functions. These can be considered to be a separate function or could be viewed as part of the enforcement function.

A discussion paper prepared during the course of a recent New Zealand review of gaming⁷⁰ emphasised the importance of separation between control and enforcement functions. Separation of these two particular functions for the gaming industry is particularly important, as there has been a history of criminal involvement in some countries in the gaming industry, particularly casinos. This potential for criminal involvement exposes regulators to bribery and corruption to a much greater extent than in other industries. It is also important to have enforcement separate from those that consider disciplinary matters in an industry such as gaming. The New Zealand review also recognised the importance of keeping the policy function separate from the enforcement function.⁷¹

Meeting the regulatory objectives of consumers protection, fairness, and harm minimisation requires clear 'rules of the game' and rigorous enforcement of consumer protection measures.

4.3 Is the current regulatory structure meeting the regulatory objectives?

Section 3 outlines the current regulatory arrangements of the NSW gaming industry. In assessing whether this regime requires change, IPART has relied upon public submissions, the public hearings, a forum of gaming stakeholders and numerous meetings with stakeholders. However, ultimately, the Tribunal has to make a judgement based on the information made available.

There are effectively three organisations undertaking control functions in the gaming industry. The CCA undertakes the control functions for the casino. The LAB and the Minister carry out the control functions for the remaining segments of the gaming industry. However the LAB has no staff or budget. Work on behalf of the Minister is carried out by DGR. In effect it is officers of the DGR that the undertake control functions and make the recommendations to both the LAB and Minister. Yet DGR also is responsible for enforcement, policy and gaming duty matters.

⁷⁰ New Zealand Department of Internal Affairs, *Gaming a new direction for New Zealand*, Wellington, 1996, pp 4-5.

⁷¹ *Ibid* p 5.

The existing three 'control bodies' having responsibility for the different sectors of gaming has resulted in some differences in the standards of controls. Licensing is an example. The aim of licensing is to maintain the integrity of gaming and to keep gaming free from criminal influence. As part of the licensing procedure a probity check is undertaken. Unless this task is successfully performed the public interest may suffer.

Currently the CCA licenses all gaming personnel in Star City. By contrast it is only the clubs and hotels secretary or liquor licensee that is licensed for gaming purposes by the DGR. While the Minister licenses NSW Lotteries, the agents that handle the products are not licensed. The licensing regime appears to be meeting the regulatory objectives for the casino; it is not for the other sectors of the gaming industry.

Enforcement functions including consumers protection, fairness, and harm minimisation, for the entire gaming industry are predominantly the responsibility of DGR. Within DGR, the DCS has responsibility for enforcement functions at the casino. Yet the DGR as it is currently structured has conflicting roles. It is responsible for some control functions such as issuing licenses, enforcement functions, general policy development and gaming duty matters. Such conflicts inhibit DGR from adequately completing all of its functions and hence for a large part of the gaming industry, fulfilling its regulatory objectives.

The arguments for and against the current regulatory structure as presented to this inquiry are summarised below.

Comments in support of a revision to the current regulatory arrangements

- There is currently inadequate consumer protection.
- Some overlap in functions and insufficient co-ordination between the CCA and the DCS as indicated by the Audit office.
- Possible inappropriate allocation of control functions (licensing and disciplinary powers) to a Minister – in the case of licenses under the Public Lotteries Act, and the Links and CMS under the Liquor and Registered Clubs Acts.
- Structural deficiencies which prevent the Department from meeting its regulatory objectives.
- A more thorough application of monitoring and enforcement of standards for liquor licensing and machine gaming at Star City in comparison with registered clubs and hotels.
- Community consultation to date on the expansion of gaming has been poor.
- The LAB has inadequate control of the resources allocated to it to perform its statutory tasks.⁷²
- An independent commission would depoliticise key decisions on gaming.
- A separate Commission provides an independent judge to review the decisions of enforcement bodies and review the performance of enforcement bodies.
- Gaming has expanded significantly throughout this decade creating the need for a new body to control the industry's direction.

⁷² LAB submission to IPART August 1998, pp 9-10.

Comments in support of current regulatory arrangements

- Lack of enforcement requires correction and resourcing of enforcement not a new body.
- Elected parliamentarians have a mandate to represent the community and therefore make the important decisions on policy on behalf of them.

On balance, the Tribunal has come to the view that a revision of the existing regulatory arrangements is desirable. As noted, the existing regulatory arrangements are fragmented and inconsistent as between the casino and the other segments of the gaming industry. This is of particular concern because technological advancement is making different games and venues increasingly similar. Although concerns regarding the casino may require a separate regulatory response for some time into the future this is unlikely to be sustainable in the longer term. Moreover, the Tribunal believes that a Gaming Commission can be established without weakening the responsibility of Ministers to parliament for executive actions.

Recommendation 4.1

Based on the information provided to this review, the Tribunal is of the view that the current regulatory arrangements require change.

4.4 The need for a gaming commission

Submissions to this inquiry overwhelmingly support the creation (in some form) of a gaming commission with the prime reason cited being the failings of the current system. Often these arguments are based on faults with the existing system rather than how a commission would produce a better outcome.

Wesley Gambling Counselling Services⁷³ submits:

There is a clear and urgent need for an independent and competent authority such as a Gaming Commission to protect the interests of problem gamblers and their families. Currently we are servicing numerous clients who complain over what they consider to be inadequate policies and oversight of gambling.

Star City, in its submission⁷⁴ writes:

Star City supports, in principle, the establishment of a Gaming Commission to oversee gaming in New South Wales. Unfortunately the current system of approving new and expanded gaming facilities has been piecemeal and subject to political pressure and is not necessarily in the best interests of the people of NSW.

NCOSS also cites the failure of the current regulatory structure as its reason for supporting revisions to the regulatory arrangements.

⁷³ Wesley Gambling Counselling Service and Wesley Community Legal Services submission to IPART, August 1988, p 2

⁷⁴ Submission to the gaming inquiry, Star City Sydney, August 1998, p 3.

Public Interest Advocacy Centre (PIAC)⁷⁵ also supports change:

It is PIAC's submission that the main Government body which is supposed to provide some discipline to the gaming industry is failing in its duties. It appears that, in addition to possible shortfalls in the laws regulating gambling, there is also a gap in the regulatory monitoring and enforcement of those laws which do exist.

Further, it appears that the Department does not address the social issues raised by gambling in a substantial and considered way. Although there is information about gambling counselling services in the brochures and publications produced by the Department, it is not the primary aim of the Department to focus its work on reducing the number of problem gamblers and assisting those who have already developed a problem. The Department apparently does not handle individual consumer complaints, nor does it monitor compliance with, or even appear to be aware of, relevant consumer protection law.

The Registered Clubs Association (RCA) in its submission:⁷⁶

Overall there appeared to be consensus [by club industry representatives and gaming equipment and service providers on the Club industry consultative working group] that the existing regulatory structure was not functioning as efficiently and effectively as may be possible under some alternative format.

The RCA supports the creation of an appropriately structured and resourced body, possibly known as a gaming commission functioning in accordance with clearly defined regulatory responsibilities and agreed procedures.

However, the Australian Hotels Association (AHA) is not convinced that a gaming commission is necessary:

... by setting up another entity [Gaming Commission], it does not necessarily solve your problems. You have to work on, if you think there needs to be more expertise, if you think there needs to be more specialist information coming forward, if you think the regulatory body needs to be strengthened somewhat, if you think that the inspectorate needs to be strengthened somewhat – and I think that all that does need to happen, you don't solve that by creating a commission.⁷⁷

Several submissions believe that lottery activities required coverage by a Gaming Commission as the potential private sector provision could see the motive to deliver profit becoming more important than responsible gaming practices. Other submissions cited concerns regarding the lack of enforcement of prohibitions on the sale of lottery products to minors and by minors.⁷⁸ Several submissions believed the current advertising practices of NSW Lotteries were less than responsible.⁷⁹

Recommendation 4.2

The Tribunal recommends that there is need for some form of gaming commission to oversight gaming in NSW.

⁷⁵ Public Interest Advocacy Centre, Submission to IPART, August 1998, p 1 & 2.

⁷⁶ Registered Clubs Association of NSW, Submission to IPART, August 1998, pp 17-18

⁷⁷ AHA presentation by Mr David Charles CEO at the public hearing held on 9 September 1988, p 80 of the transcript.

⁷⁸ Submissions including Wesley Gambling Counselling Service.

⁷⁹ Submissions including Department of Women, NCOSS and Wesley Gambling Counselling Service.

4.5 What functions should a gaming commission undertake?

In making a recommendation on the functions of a gaming commission, the Tribunal must make a judgement on how best to meet the regulatory objectives. This requires consideration of whether the regulatory functions (control, enforcement, policy and revenue assessment and collection) should be carried out by separate organisations or whether the regulatory objectives can still be met by completing some or all of these functions in a combined entity. In formulating its view IPART has considered the different structures of gaming regulation used interstate and internationally. However ultimately the Tribunal must make a judgement.

The various models considered by the Tribunal include:

- Combining all the regulatory functions within a gaming commission.
- Placing each of the regulatory functions into separate organisations.
- Separating the control functions into a gaming commission and combining the other functions within another separate body.
- Combining control and policy functions within a gaming commission, with separate enforcement and revenue collection.

The New Jersey regulatory model is often held up as an example of regulatory 'best practice'. It is a two-body model with the emphasis on the separation of the control functions from enforcement. (For more discussion on New Jersey gaming regulation see Box 3.) The threat of crime and corruption within the gaming industry is a sufficiently strong argument for:

- placing the control and enforcement functions into separation bodies; and
- ensuring that the control functions are carried out independently.

Recommendation 4.3

The Tribunal recommends that all gaming related control functions be carried out by an independent gaming commission, separate from enforcement.

The arguments for where policy and revenue assessment and collection functions belong are not quite so strong. Revenue assessment and collection should be performed by the most efficient and cost effective service provider. Policy could be carried out in a separate body or for operational efficiency reasons combined with control or enforcement. A recent New Zealand review emphasised the importance of keeping the policy function separate from either the control or enforcement functions.⁸⁰ Arguments have also been presented to IPART that the policy function could be successful combined with either control or enforcement. The more compelling issue in relation to policy is that it should remain the domain of government.

Under the Westminster system of parliament, it is well accepted that governments should be held accountable by the electorate for significant policy decisions, which impact the well being of the community. Clearly government needs consider how to best make fundamental decisions on gambling such, as the number of casinos and where gaming machines should be operated. Government has a choice between two broad models:

⁸⁰ New Zealand Department of Internal Affairs, *Gaming a new direction for New Zealand*, Wellington, 1996 p 5.

- retaining responsibility for fundamental gambling decisions
- delegating core gambling decisions to an independent (government) body.

Should Government decide to retain responsibility for core decisions it should prior to policy changes, request that the gaming commission conducts a social and economic impact study of the proposal.

4.5.1 Where does casino surveillance fit?

As explained in section 3 casino enforcement is currently carried out by the Director of Casino Surveillance (DCS) while the casino control functions are carried out by the CCA. Under a 'New Jersey' style model this is the appropriate split of functions, ie the agency responsible for the control functions should not undertake any enforcement or investigative work.

However, as part of this inquiry the issue has been raised as to whether the advantages of a complete separation between the control body and the enforcement body are exceeded by those arising from an integrated approach to casino surveillance.

McClellan in his report pursuant to section 31 of the Casino Control Act states:⁸¹

I can see no good reason for continuing the administrative separation between the Authority and the Director [of Casino Surveillance], particularly now that the permanent casino is operating with its expanded operational and regulatory requirements. In expressing this view, I am conscious of the need for both the Authority and the Director to maintain their separate statutory independence. I do not believe that such independence would be compromised if the Authority was given administrative responsibility to support the Director. Indeed my view is that it would be likely to be enhanced. I believe this approach will result in the agencies being more effective as well as assisting the casino operator in carrying out its commercial operations.

Combining the casino control and enforcement functions may increase the integration of casino regulation with some cost savings, yet it does result in reduction in the separation of control and enforcement functions espoused under the New Jersey model of gaming regulation.

Recommendation 4.4

The Tribunal recommends that casino enforcement be carried out by a unit of the agency responsible for all gaming industry enforcement.

4.5.2 Should gaming regulation be combined with liquor regulation

Currently NSW liquor and gaming regulation are performed by the same bodies (DGR and LAB). While regulation of the liquor industry is not part of the terms of reference of this Inquiry, IPART in making its recommendations, believes recommendations as to the regulatory structure of the gaming industry should not be to the detriment of the operational efficiency and effectiveness of the regulation of the liquor industry.

There are operational advantages for joint regulation of the two activities:

- avoidance of the additional costs of having separate bodies for liquor and gaming

⁸¹ Report of Investigation pursuant to section 31 of the NSW casino Control Act 1992, Sydney, December 1997, p 134.

- many of the issues relating to control and enforcement of liquor and gaming are common, eg harm minimisation, probity checks
- potential synergies and greater expertise relating to inspecting liquor and gaming from one body.

However, some welfare groups have expressed concern that combining the regulation of both may lead to the expansion of gaming over time into all licensed premises, for example, restaurants. IPART considers that access policy issues are a matter for government. Combining both the control and enforcement functions of the gaming and liquor industries would result in operation efficiencies and would not, of themselves, lead to inappropriate policy outcomes.

Box 3 The System of Gaming Regulation used in New Jersey (USA)

The New Jersey Government placed governmental authority over the casino industry in not one but two separate agencies: the Casino Control Commission and the Division of Gaming Enforcement was given the investigative function and the prosecutorial function. This separation was done, at the sacrifice of efficiency, for the specific purpose of creating a system of checks and balances. The legislature recognised the need to centralise the regulation of this highly sensitive industry. However, it recognises the need to minimise the possibility of corruption. The Commission and Division act as a check and balance on each other. For example, if the Commission disagrees with a Division recommendation it may disregard that recommendation. Conversely, if the Division disagrees with a final decision of the Commission, it may appeal that decision to the courts.

The separation of functions into two agencies was recommended for the following two basic reasons;

- placing regulatory authority in one agency would be dangerous in an area as sensitive as casino gaming.
- by creating the Commission as an independent, impartial body vested with full quasi-judicial and quasi-legislative authority, the investigative and prosecutorial functions could remain in the Attorney General's office (the principal law enforcement agency of the state) without offending the concepts of fairness or due process. The scenario of one agency serving as investigator, prosecutor, and judge was avoided.

The need to further ensure the integrity of the regulatory process by providing a check and balance system, while maintaining centralisation of the law enforcement resources of the Attorney General's office, outweighs any sacrifices in efficiency caused by having two separate agencies. However, if this system of checks and balances is to work as designed, **each agency must be staffed to independently**, understand, analyse, and critically evaluate the work product of the other. Whilst both the Commission and the Division strive to avoid duplication, efficiency in the regulatory process should not sacrifice casino integrity. In establishing the two agencies as a check on each other, the legislature made the value judgement that, efficiency must yield to integrity. With two separate, independent agencies, some duplication is inevitable and even necessary. For example the Commissions Act requires inspectors to be present at all times in the casinos to investigate the conduct of the games and the maintenance of the equipment as the Commission may deem necessary.

One of the primary responsibilities of the Division is to provide the Commission with the information necessary to make its decisions. For a contested case the judicial body must have the independent capacity to critically evaluate the information presented to it. The need for that independent capacity dictates that both agencies employ staffs with expertise in all matters relating to the duties assigned to them. Changing conditions in the industry, amendments to the law, added experience, and other factors often require amendments to Commission regulations. Thus, the Commission must maintain comprehensive in-house expertise. The continuing nature of these responsibilities militates against wholesale use of consultants or the reliance on the other agencies of government. Similarly, the Division of Gaming Enforcement, together with the other divisions of the Attorney General's office (principally the State Police and the Division of Criminal Justice), must maintain sufficient expertise to complete its investigative and enforcement responsibilities, independent of the Commission.

Conclusion

The Casino Control Act specifies that the goal of economic revitalisation in Atlantic City is not to be achieved at the expense of the integrity of either casino operations or the regulatory process itself. While the primary purpose for legalising casinos is the fostering of economic development, legitimate law enforcement concerns dictate that the integrity of casino operations remain a necessary pre-condition. The regulatory system is designed to promote that economic revitalisation while safeguarding the operational integrity. The various procedural safeguards and checks and balances are what make this regulatory system strong.

Source: Seton Hall Legislative Journal, New Jersey Casino Gaming Symposium, Vol 6 Summer 1982 No 1. pp 17-20.

The AHA and the Liquor Stores Association have stated their strong preference for liquor regulation to be undertaken by a specialist body that understands the often complex licensing legislation. However, IPART notes that the LAB currently is responsible for both liquor and gaming matters.

It is IPART's view that a combined gaming and liquor commission will provide a greater understanding of both industries and that the commission can act in a quasi-judicial role for the purposes of license applications.⁸² Moreover, much of the expertise developed by the LAB would be available to the new commission.

Recommendation 4.5

The Tribunal recommends that the combined regulation of the gaming and liquor industries be retained.

4.5.3 The independence of a gaming commission

A central issue to this review is whether a gaming commission should be independent and what does independence really mean? Many of the submissions recommended that the gaming commission should be independent. However, many submissions were unclear on their definition of independence. Is a commission that reports to a minister independent or does independence require that a commission should be only accountable to parliament? If a commission reports to a minister can a minister direct (either formally or informally) the commission? If so, is this still deemed 'independent'?

The Casino Control Authority emphasises the importance of independence for casino regulation:⁸³

... the [CCA] Act provides that the Authority is not subject to the control or direction of the Minister except in certain limited circumstances and directions given must be notified publicly and tabled in parliament.

... the Authority is of the strong view that there should continue to be the strictest independent regulatory control over the casino.

Venue operators all preferred for the gaming commission to report to the Minister.⁸⁴ The Australian Gaming Machine Manufacturers Association suggested:⁸⁵

That the single authority [gaming commission] should not have statutory independence. We believe that such a status carries with it an inherent weakness.

Its weakness rests in determination of what is a proper level of gambling to be permitted to occur and the taking of appropriate measures to avoid excess. The first of these tasks involves the making of value judgements, for which the members of a statutory authority have no particular qualification. That judgement ought to be made by one or more persons elected by, and answerable to, the electorate: A Minister or the Government as a whole.

In contrast most social welfare groups and problem gaming service providers preferred a structure similar to ICAC where the commission would report only to Parliament.⁸⁶ NCOSS

⁸² An appeals mechanism should also be established to either the Administrative Decisions Tribunal or an appropriate court.

⁸³ Casino Control Authority, Submission to IPART, August 1998, p 3 and p 19.

⁸⁴ See submissions to IPART from RCA, p 17 and AHA, p 14.

⁸⁵ Australian Gaming Machine Manufacturers Association, Submission IPART, August 1998, p 13.

⁸⁶ See submission to IPART from NCOSS, August 1998, p 7.

suggests that the gaming commission should have an independent board with representatives of the community governing the commission.

Although formal reporting lines and responsibilities can be specifically defined in legislation, this definition is unlikely to prevent informal direction by Ministerial office holders where issues of great importance are involved. Overall, IPART believes that the Minister should have some control over key decisions in gaming. By contrast, the need for independence is greater where issues of control and property rights are involved. To date, the CCA model of independence has functioned well for both the government and the community and could form a model for the commission.

IPART supports a structure whereby the chief executive and the Board members of the commission's can only have their tenure terminated at the conclusion of their contract term or by parliament. The commission should be free to publish its own reports in completing its responsibilities.

Ultimately, independence revolves around whether and in what manner a Minister is able to direct the Commission, the ability of the Commission to freely report its decisions or findings and the existence of an appeals mechanism.

Recommendation 4.6

The Tribunal recommends a gaming commission with legislative independence similar to that of the Casino Control Authority.

4.5.4 Ministerial Directions

IPART believes that the proposed new gaming commission should have the same level of independence as the CCA. The CCA is fully independent with the exception that it can be directed by the Minister in limited instances. Ministerial directions must be in writing and then must be published in the NSW Government Gazette and tabled in Parliament. The powers of direction are limited to use in specific instances.

The Minister may direct the CCA to exercise any of its functions under the CCA Act but only if the Minister is of the opinion that the direction or guideline:

- is necessary or desirable to protect the integrity or apparent integrity of casino gaming, or is otherwise in the public interest.

Directions and guidelines under this section are not to relate to:

- the determination of an application for any licence under this Act
- any of the CCA functions under section 23 (Disciplinary action against casino operator) or section 59 (Disciplinary action against licensee).

The Minister may from time to time give a direction in writing to the CCA as to:

- the permissible location for a casino, size and style of a casino
- the development required to take place in conjunction with the establishment of a casino, such as the development of a hotel or other complex of which a casino is to form part
- any other prescribed matter concerning the establishment of a casino.⁸⁷

⁸⁷ as specified in the *Casino Control Act (1992)*.

Before giving a direction on any matter to the CCA, the Minister is to call for a report on the matter from the CCA and is to consider this report. The Minister may vary or revoke a direction by a further direction in writing to the CCA.

Specifying instances where Ministerial directions can be made to the Gaming Commission

As the gaming commission will control not only the casino but all forms of gaming, consideration of instances where the Minister can direct the gaming commission on hotels, clubs, lotteries and Keno is required. IPART believes that the Minister should retain the ability to either determine or direct the gaming commission regarding material changes to government policy. IPART sees it as Governments role to establish the framework for controls and accessibility to gaming within legislation for the commission. Minor variations to the commission's operating framework could be executed by Ministerial direction. However, major changes to the gaming commission's operations should require amendments to legislation. For example, changes to the maximum number of gaming machines that hotels could operate or say expanding Keno to hotels require a Ministerial direction. Whilst major changes such as altering the reporting lines of the commission should require legislative amendment.

Recommendation 4.7

IPART supports a system of Ministerial direction for the proposed gaming commission similar to the CCA model.

4.6 IPART's preferred model for gaming regulation

Recommendation 4.8

The Tribunal recommends that the regulatory structure for the NSW gaming (and liquor) industry consists of 2 bodies:

- ***a gaming commission to undertake the control functions of the gaming industry; and***
- ***an enforcement and policy agency.***

Revenue assessment and collection should be performed by the most efficient and cost effective service provider. It could be part of the agency. Alternatively, government could consider transferring revenue collection to the Office of State Revenue (OSR). OSR is a separate division of NSW Treasury which is established as a specialist revenue collection and processing unit.

4.6.1 The Independent Gaming & Liquor Control Authority (Gaming Commission)

The Gaming Commission, to be referred to as the Independent Gaming and Liquor Control Authority (IGLCA) would undertake all control functions for the gaming and liquor industries. It would absorb the CCA and the LAB, with functions including:

- control functions of the LAB, for example community disturbance complaints
- CCA control functions, for example disciplinary matters against the casino operator
- control functions of the Licensing Court, for example contested licence applications
- control functions required under the Public Lotteries Act and any other control functions currently undertaken by the Minister

- providing a separate report (at least annually) to parliament evaluating the effectiveness of:
 - enforcement by the Agency
 - consumer protection in gaming
 - the performance of the community fund
- focused gaming related research associated with the economic and social impacts of gaming.

The IGLCA would be a statutory authority with an independent board. The IGLCA Board would report to the Minister but would only be subject to ministerial direction in specific instances via tabled and gazetted public notice as per the CCA model. The board would have a performance agreement with the Minister. The CEO of the IGLCA would have a performance agreement with the Board. The IGLCA would have the same high level of independence that the CCA currently has. Importantly, the IGLCA must employ its own staff and control its own budget for the reasons described in Box 3 (the system of gaming regulation utilised in New Jersey USA).

IPART believes that the IGLCA should be subject to provisions of natural justice⁸⁸ for most gaming related decisions for clubs and hotels but supports a continuing exemption from natural justice for casino regulation and control, such as casino ownership probity.⁸⁹ The exemption from natural justice for casino issues is required to enable the IGLCA some discretion to prevent persons without criminal records, yet with criminal associations, from participating in casino operations. The CCA submission states that this exemption remains necessary as one of several measures assisting to 'keep substantial criminal activity away from casino operations' and in 'maintaining the integrity of the regulatory process'. The exemption assists to prevent people who are notorious, but do not have provable, criminal links from gaining an involvement in the casino.⁹⁰

The establishment of a single gaming commission as a control body should alleviate many of the problems of the current regulatory structure, mainly fragmentation of regulatory bodies and a lack of clearly defined roles. Providing the ILGCA with a monitoring and reporting role on the whole of the industry emphasises the importance of 'people watching people'. The ILGCA should provide the public with greater confidence that the whole industry is meeting regulatory objectives and operating honestly and effectively. The ILGCA needs independent capacity to critically evaluate the information presented to it by the enforcement agency. The need for that independent capacity dictates that both IGLCA and GLA employ staff with expertise in all matters relating to the duties assigned to them. Changing conditions in the industry, amendments to the law, added experience, and other factors often require amendments to Commission regulations. Thus, the ILGCA must maintain comprehensive in-house expertise.

⁸⁸ Natural justice refers to a set of procedures to be followed by a body charged with adjudicating upon disputes. The key rules are to act fairly, in good faith, without bias and in a judicial temper; to give each party the opportunity to state their case, and correcting any relevant statement prejudicial to the case and not to hear one side without the presence of the other. A man must not be judge in his own case, so that a judge must declare any interest held in a case. The defendant must have notice of what they are accused of. Relevant documents which are used by the judge should be disclosed to the parties interested. In summary, not only should justice be done, it should be seen to be done.

⁸⁹ The CCA is exempt from natural justice under s141(4) of the CCA Act (1992).

⁹⁰ CCA submission to IPART August 1998, p 4 and p 10.

IPART supports a gradual transition towards the licensing of all gaming staff. This would commence with gaming managers and progress eventually to cover all cash handling staff. The ILGCA would need to conduct a risk assessment of the level of licensing appropriate for each type of gaming venue and staff members within each venue. Of note is that the AHA submission supports the pursuit of licensing stating,

The hotel industry would like to see the licensing of managers and shift supervisors and all other employees who work in a separate gaming room.⁹¹

IPART sees merit in the eventual licensing of all staff involved in gaming. Gaming venue employees with cash handling, machine maintenance and or ticket issue duties hold positions of responsibility. Currently each venue (except Star City) performs its own (if any) suitability checks on potential gaming employees. Patrons, government and employers need assurance that gaming employees operate fair and honestly. However, licensing of lottery sales staff is probably not necessary in the foreseeable future.

Recommendation 4.9

IPART supports the immediate licensing by the ILGCA of all gaming managers and eventual licensing of all gaming related employees by say 2001.

4.6.2 Gaming & Liquor Agency (GLA)

The regulatory and policy functions of the gaming and liquor industries should be fulfilled by the Gaming and Liquor Agency. It is critical to ensure separation of the control and enforcement functions in order to meet the regulatory objectives by providing appropriate checks and balances, minimising the potential for corruption, ensuring proper accountability and maximising public confidence.

In recommending the Agency being a combined enforcement and policy agency IPART judged that operational efficiencies would outweigh possible benefits of having a separate enforcement agency and a small policy agency which in any case would both report to the Minister. It is IPART's view that the establishment and administrative costs of an additional policy agency would exceed the potential benefits of separation. In making its decision IPART also expects that the combining of enforcement and policy should in no way reduce the quality of either product.

The agency would have the following functions:

- enforcement functions for all liquor and gaming matters
- consumer protection
- a separate specialist liquor division within the GLA to perform the liquor functions of the LAB and the licensing court
- policy development and advice to government on all gaming related topics including consumer protection, responsible gaming policies, access and game types
- community consultation
- coordinate research into all aspects of gambling
- coordinate services (in consultation with Department of Health and DOCS) for problem gamblers and their families (see Section 6.6)

⁹¹ AHA submission to IPART August 1998, p 22.

- administration of the community benefit fund (see section 6.6.2).

The agency would report to and be under the control of the Minister. To assist the head of the Agency to appropriately undertake his or her duties it may be desirable to provide the position with security of tenure for the term of their contract.

Recommendation 4.10

Tribunal recommends that government consider making the head of the GLA a statutory appointment.

A priority for the Agency should be implementation of CMS, without delay, to ensure the integrity of all gaming machines and to provide certainty that payment of government duty is not avoided. TAB is the sole operator of CMS but also can participate in machine gaming. Government needs to ensure that the ringfencing proposed by the TAB is adequate.

Clearly the casino is a totally different gaming venue due to the high turnover from table games and requires a more stringent standard of regulatory monitoring. Effective casino employee licensing is already in place and must continue. Yet, the inspection resources dedicated to monitoring gaming activity in the 3,400 registered clubs and hotels is much lower than resources dedicated to Star City. Regulation of hotels and clubs could benefit from application of some of the principles of casino machine gaming regulation. By contrast, Keno and Lottery products are more mature, have fewer reported problems and appear to already have adequate regulation.

Of note is the view that some of the larger clubs believe that the inspection of clubs and hotels is inadequate. The BetSafe group of clubs (a coalition of 9 of the 30 largest NSW clubs) state that:⁹²

The inspectorate of the Compliance Division of the Department of Gaming and Racing is under resourced; given the number of venues, it simply does not have the necessary capacity to effectively 'regulate' the industry.

Providing the GLA with a clearly defined role as a combined policy and enforcement agency should facilitate the meeting of regulatory objectives. The GLA should be established with a strong consumer protection focus, and with appropriate resources to allow it to meet this objective.

It has been suggested to IPART that minor control functions such as the issuing of minor variations to liquor licenses and some employee licenses are more akin to an administrative function and accordingly should not encumber the ILGCA. IPART is concerned to ensure that the integrity of the regulatory arrangements are upheld. Whilst licensing gaming personnel may be predominantly an administrative task, this may not be sufficient reason to compromise the regulatory framework.

Recommendation 4.11

The Tribunal recommends that Government give further consideration to whether minor control functions that are predominantly administrative in nature, should be delegated by the ILGCA to the Gaming and Liquor Agency.

⁹² BetSafe submission to IPART, August 1998, p 9.

It has been suggested by some stakeholders that 'operational' policy such as rules of games is in fact a control function, and as such should be carried out by the IGLCA. Others believe that operational policy is policy and should be carried out by the GLA. It is not clear to IPART whether issues such as rules of the game are control or policy matters. IPART recommends that Government further consider this issue prior to establishing the new regulatory arrangements.

4.6.3 Revenue assessment and collection

The Gaming and Liquor Agency could be responsible for the assessment and collection of gaming duties. Equally, the OSR may be best placed to perform the duty collection functions. If OSR were to collect government duty, the result would be a desirable separation of policy from revenue collection. **OSR is a separate division of NSW Treasury which is established as a specialist revenue collection and processing unit. OSR would have no role in formulating policy regarding tax issues.** Overall, duty collection should be completed by the lowest cost provider of an effective, high quality service.

Once CMS is implemented for registered clubs and hotels duty payable for the whole gaming industry (casino, lotteries, registered clubs and hotels) can be calculated remotely and an electronic transfer (sweep) of the duty payable from the venues bank account can be made weekly to the OSR. CMS would end the need for venues to complete their time consuming quarterly self-assessment of duty, which is time consuming. Electronic transfer of duty already operates effectively in Queensland and Victoria.

Prior to CMS being established (before 1 January 2001), venues will continue to follow the self-assessment process. By nature this process requires follow-up audits by the GLA and hence revenue collection in the short term may be better undertaken by the GLA.

4.6.4 Accountability

The Audit Office in its review of casino surveillance recommended⁹³:

To improve accountability, performance assessment arrangements should be amended to provide for a capacity to review the CCA by a Committee of Parliament.

The CCA in its response to the Audit Office on this recommendation stated⁹⁴:

Philosophy behind the [CCA]Act, as endorsed by Street (1991) indicates that the CCA should be at arms length from political processes and industry pressures.

Recommendation 4.12

The Tribunal recommends that Government consider the merit of having a standing committee of parliament review on a periodic basis whether the regulatory arrangements for the gaming industry (both the IGLCA and GLA) are meeting the Government's regulatory objectives.

⁹³ The Audit Office, Performance Audit Report Casino surveillance as undertaken by the Director of Casino Surveillance and the Casino Control Authority, June 1998, p6.

⁹⁴ *ibid* p 89-91.

4.7 Legislative changes required

Significant legislative changes are required to implement the IPART preferred model for gaming regulation. The CCA Act, the Registered Clubs Act, the Liquor Act and the Lotteries Act will need to undergo a detailed assessment to ascertain what changes are necessary to implement the proposed regulatory model.

This process of legislative review is necessary and best performed by government.

4.7.1 The merit of restrictions on gaming machine numbers and venues

Numerous submissions to this review called for restrictions on total number of gaming machines in NSW as a measure to prevent further growth in problem gambling.⁹⁵ Most of these submissions sought a statewide cap as exists in Victoria, which limits the maximum number of machines to 27,500 with at least 20% of these outside of Melbourne.

Similarly, submissions also sought restrictions on the accessibility of gaming machine through limits on the number of venues that are permitted to operate gaming. The Local Community Services Association emphasised that it is the number of gaming venues, and gaming activities which require limitation, rather than the total number of machines.⁹⁶

The ability of a statewide 'cap' (limit) on the total number of gaming to control growth in problem gambling is doubtful. Victoria has only 29% of the gaming machines operated in NSW, yet generates a turnover of 61% of NSW's turnover.⁹⁷

The theory that a cap on total gaming machines would be an ineffective measure is supported by Wesley Gambling Counselling Service which states:

With 10% of the world's poker machines in NSW available for up to 24 hours in numerous locations, there can be no suggestion that placing a cap on the number of poker machines will be of any assistance in controlling problem gambling. Such a cap would only inhibit access to machines at times of peak demand, such as Friday and Saturday nights. Instead it will be necessary to develop more sophisticated strategies to protect consumers and minimise the incidence of problem gambling.⁹⁸

Government is elected to represent the wishes of the community; it is best placed to define the extent of accessibility for gaming. Once defined, the ILGCA would adjudicate and enforce these restrictions on accessibility. However, IPART is of the view that existing restrictions (hotels are limited to a maximum of thirty gaming machines whilst registered clubs are not limited to a maximum number) should be retained until Government, with advice from the ILGCA, has completed an evaluation of the impacts of recent changes which have expanded access to gaming.

In relation to gaming machines, IPART recommends that the government require the ILGCA to report periodically on the economic and social consequences of gambling.

From a functional perspective, gaming venue operators would apply to the ILGCA to increase their number of gaming machines to the level set by government possibly via

⁹⁵ Submissions to IPART including NCOSS p 7, Shoalhaven Parents and Partners of Problem Gamblers p 3 and submissions from several individuals.

⁹⁶ Local Community Services Association, Submission to IPART, August 1998, pp 3-4.

⁹⁷ Tasmanian Gaming Commission, Australian Gambling Statistics, 1972/73-1996/97, Table 214.

⁹⁸ Wesley Gambling Counselling Service, Submission to IPART, August 1998, pp 8-10.

Ministerial direction. Providing gaming venue operators meet all existing preconditions, the ILGCA would approve applications within limits imposed by government.

5 MEASURES TO FOSTER RESPONSIBLE GAMING

The third and fourth terms of reference for this Inquiry requires consideration of,

3. measures (both existing and potential) to foster a responsible gaming environment
4. co-ordination of the problem gaming policies of hotels, registered clubs and the casino and other providers of gaming

For the majority of consumers of gambling products, gambling is an enjoyable recreational activity. It is one of many forms of entertainment. However, for some people gambling is no longer merely entertainment but it is also an obsession. Fostering responsible gaming involves assisting consumers to enjoy gaming but minimising the problems that are associated with gaming.

There are some similarities between the consumption of gaming and of alcohol. Both are a form of entertainment or relaxation for many people. However, in excess, both can cause devastating effects. Stakeholders in the alcohol industry have responded to the negative effects of alcohol by voluntary actions and actions that are required by regulation. The responsible service of alcohol program is an example of an effective joint government and hospitality industry initiative. Government and the industry have emphasised that alcohol should be enjoyed in moderation. Similarly, the gaming industry needs to encourage people to bet no more than they can afford.

A balance must be struck between ensuring that venue operators act responsibly in the delivery of gaming, and that the regulations and codes are not so onerous that participants are driven to other forms of gambling that are less subject to control, for example, illegal gambling or gaming on the Internet.

Some venue operators, Star City, NSW Lotteries, Keno have developed individual codes of conduct aimed at fostering responsible gaming. The Registered Clubs Association and the Australian Hotels Association have also developed individual codes of conduct. These codes are a starting point but have limitations (see section 5.2). Many of the submissions to this inquiry are from people adversely affected by gambling. Through their comments, public hearings and other meetings the Tribunal has compiled a list of measures designed to foster more responsible gambling. The measures identified are:

- Education
- Codes of conduct
- Licensing of gaming employees
- Responsible advertising
- Labelling, signage and brochures
- Enforcing the ban on credit betting
- Improved consumer protection
- Responsible provision of complimentary inducements
- Availability of professional counselling
- Research
- Support services for problem gambling
- Ban employees from gaming
- Family protection
- Access to ATMs
- Improving the design of gaming venues
- Community consultation
- Self exclusion programs

Implementation of responsible gaming policies should be the prime responsibility of venue operators.

It is difficult to assess which measures assist more in fostering responsible gaming because very little research is available on the effects of gambling and the effectiveness of measures to promote responsible gaming. Other issues requiring research include why people gamble, why gambling becomes a problem for some people, the best prevention methods and the amount of funding required for support of problem gambling. The short time frame for this inquiry prevented the commissioning of such research.

Recommendation 5.1

IPART strongly recommends that the Gaming and Liquor Agency immediately commence coordinating and prioritising research into gaming – why people gamble, why gambling becomes a problem for some people, prevention methods and other related topics. The Agency should include as an immediate priority the investigation of the effectiveness of the measures to promote responsible gaming and assess their strengths and limitations.

The Agency should provide a list of priorities to the CCBF who should develop a strategic research plan in consultation with the community and industry and then tender to have this research undertaken over the next three years. Funding for this research would continue to be provided by the Casino Community Benefit Fund.

The ILGCA should review the overall effectiveness of the research effort.

Measures to foster a responsible gaming environment are discussed in the sections below.

5.1 Education

Several submissions to this inquiry sought to widen the senior school curriculum to include a module on gambling, with a focus on social impacts and information on the expected long term returns from participation in gambling activities.⁹⁹

IPART supports an examination of the potential to incorporate information on gambling and problem gambling into existing school subjects. Topics could include: the potential for problem gaming, recognising symptoms that a problem exists, the availability of counselling, and how to calculate the probability of winning in gaming.

In other areas of public health, prevention is considered a critical tool in the approach of dealing with problems or addictions. For example, the 'quit for life' smoking campaigns, responsible servicing of alcohol, and child immunisation programs are all examples where education has assisted with prevention.

IPART also sees merit in implementing mandatory training for gaming related staff of gaming venues. IPART notes that some industry representatives bodies, such as the AHA, are well advanced in developing gaming employee courses and are seeking government accreditation of these. Mandatory courses should be tailored with higher attainment required of gaming managers than general gaming staff. Both courses should cover implementing strategies for effective harm minimisation, symptom recognition, self-exclusion and assistance of problem gamblers.

IPART also supports the establishment of an information program specifically formulated for the families of problem gamblers. This course may cover issues such as how to support

⁹⁹ Submissions to IPART including NCOSS and several submissions from individuals.

the problem gambler, behaviour to expect from problem gamblers, how to limit access to family funds and protect family assets.

Government should also evaluate the merit of a television campaign promoting awareness of problem gaming, akin to campaigns such as driver fatigue and quit smoking.

5.2 Codes of conduct

Codes **can** offer an effective way of communicating the concepts of responsible gaming to staff and customers, in succinct and plain English. Legislation alone may not achieve this. Moreover, Codes are designed as a way of encouraging standards which exceed legislative minimums.

The RCA, the AHA and Keno are advanced in developing codes of conduct. NSW Lotteries has adopted the Australian Lotteries Industry Code of Practice. Star City has its own code of practice (see Box 4). Each segment of the gaming industry has a slightly different code of practice. NCOSS believes there is merit in a uniform industry code of practice and in providing legal backing to the code.¹⁰⁰

NCOSS supports development of a uniform (whole of industry) mandatory code of conduct across the gambling industry to safeguard consumers and the industry. While voluntary adoption of a genuinely effective and appropriate responsible gambling policy is a sound objective, we believe that the importance of this initiative necessitates a uniform mandatory code of conduct. Enforcement sanctions are necessary to ensure adoption of a code of conduct.

Self regulation is unlikely to be successful, given the lack of demonstrated commitment from the industry to support harm minimisation strategies. Problem gambling is a serious social and health problem which requires intervention by the government rather than the industry.

The codes provide a good starting point for more responsible gaming and installation of these codes must be expedited. **However, IPART supports the development of an industry wide code of conduct. Such a code would establish a minimum set of standards for fostering responsible gambling. Additionally, each sector of the gaming industry would be required to incorporate measures specific to its gaming segment.** For example, all operators of gaming machines be they clubs, hotels or the casino would adopt the industry code plus an additional code for the responsible operation of their gaming machines.

Codes of conduct should stipulate a variety of harm minimisation requirements including:

- minimum signage
- education requirements
- promotion of a self-exclusion program
- minimum labelling, signage and brochure requirements
- responsible advertising of gaming
- enforcing the credit ban
- the responsible payment of winnings
- the responsible provision of complimentary inducements
- how respond to a patron suffering gambling related distress.

¹⁰⁰ NCOSS Submission to IPART, August 1998, p 11.

However, core minimum standards need to be legislated as voluntary codes have no enforcement or sanction mechanisms.

Box 4 Star City's Responsible Gaming Policy

In recognition of the potential social impact of casino gaming, the casino operator, in consultation with the CCA, has developed and implemented a number of strategies to assist those persons who may be affected. Specific action taken and monitored includes:

- offering patrons a free counselling session with an appropriately qualified counsellor.
- adopting the slogan "Bet with your head not over it" and use of this in most promotional material, as well as on posters located both internally and externally at the casino premises.
- Multi-lingual plaques throughout the casino advertise the G-Line (1800 phone number) which provides referral to service providers and access to telephone counselling.
- a Star City brochure on problem gambling is available from service counters throughout the casino and contains information on self exclusion.
- All front line customer service staff (which includes security staff, gaming managers and staff and food and beverage staff) have undertaken a course provided by Star City to assist them to recognise persons who may be adversely affected by casino gaming.

Further ways of assisting persons who may be adversely affected by gambling in the casino are being examined for the purpose of implementing new strategies in this area.

Source: Star City Submission to IPART, August 1998, pp 9-11.

The lack of meaningful research on which actions foster responsible gaming makes it difficult for IPART to recommend mandatory components for incorporation into an industry code.

Recommendation 5.2

The Tribunal recommends that the Government evaluate which minimum components of a responsible gaming strategy should be mandatory and legislated and which components are best left to industry wide codes of conduct.

5.3 Responsible advertising

Some of the advertising slogans utilised by gaming operators are not completely accurate, or emphasise only the potential upside of gaming expenditure. For example, 'Thommos' hotel gaming rooms use the slogan, "Everyone's a winner at Thommos".

NSW Lotteries features slogans which only promote the potential upside of gaming expenditure. "It could be you", "Win a truckload of cash", and "Scratch me happy" are examples of such advertising campaigns. Yet NSW Lotteries is selling the chance of attaining a 'fantasy' and may warrant different advertising standards. Lotteries are primarily focused on providing very large prizes at long odds and hence commercial success requires NSW Lotteries to market this 'fantasy' aspect.

Part V of the Trade Practices Act (1974) prohibits companies from making false or misleading representations. Yet, imaginative promotion of products is a normal part of attracting customers and encouraging them to purchase. However, all advertisers must ensure that each representation is factual. The only exception is puffery or self-evident exaggeration, such as 'whiter than white' or 'the best thing since sliced bread', where it is unlikely that any customer would take the claims seriously. Gaming operators must ensure advertisements comply with Trade Practices Acts requirements.

The Australian Association of National Advertisers has a code of practice which provides guidelines for the responsible sale and promotion of gaming products. Wesley Gambling Counselling Services believes this is not sufficient and is concerned with the quality of current advertisements:

Nearly all advertising emphasises winning. This contrasts with the fact that gamblers can expect to lose over time. Our concern is that the current industry approach is "if its legal, we can do it". Courts have allowed advertisers tremendous freedom in advertising. ... There needs to be an advertising code and an investigation of the impact of advertising on potential problem gamblers.¹⁰¹

The trend towards a national gambling market featuring growing competition amongst multiple lottery providers, as well as expanding Internet and telephone access to interstate gaming and wagering providers means that a national gambling advertising code is preferable to a state one.

Recommendation 5.3

The Tribunal recommends that the new Gaming and Liquor Agency develop advertising standards to cover all gaming products. The standards should be developed in consultation with the community and should then be progressed as the basis for a national gambling advertising code.

5.4 Licensing of gaming employees

As discussed in Section 4.7, IPART believes that, in the medium term, the licensing of all employees involved in gaming is an essential measure to ensure the responsible provision of gaming. The completion of educational programs dealing with problem gambling would be a natural pre-requisite to obtaining an employee license. IPART's recommendations on this issues are also contained in Section 4.7.

5.5 Labelling, signage and brochures

The display of signs and accompanying brochures promoting responsible gaming within gaming venues is often advocated as an important measure in fostering responsible gambling. Signage can be used to raise awareness of the potential for addiction, suggest self-exclusion, and offer advice on where to get help (eg G-Line).

IPART believes that the quality and extent of venue signage with relevant information on gambling is generally poor. Mandatory venue signage requirements need to be established.

To promote responsible gambling, Star City utilises signage and brochures with the slogan, "Bet with your head not over it". A submission from the Women and Gambling Project believed that this slogan is ineffective as around 50% of casino patrons are of Asian background and may not fully understand the double meaning utilised. Wesley Gambling Counselling Service shares the view that the Star City slogan is ineffective describing it as very vague, and suggest a new slogan "Gambling may cause problems in your life. Star City advises caution."¹⁰²

Some submissions describe a phenomenon called 'signage fatigue' whereby increasing numbers of signs and excessive content have diminished their effectiveness. Stakeholders

¹⁰¹ Submission to IPART, August 1998, p 9.

¹⁰² Wesley Gambling Counselling Service, submission to IPART, August 1998, p 9.

need to consider which signs are crucial, to ensure the message is not lost. Similarly, the use of universal multilingual signs may have exacerbated 'signage fatigue'. There is an obvious tradeoff between the benefits of reaching all ethnic groups and losing the message from the message being too long and/or confusing.

Some submissions to IPART sought the introduction of factual information labels for gaming activities, such as payout rates (%). This would be akin to warnings places on cigarette packaging. For example, NSW Lotteries products could state that, "On average only 65% of money spent on tickets is returned to players." Yet NSW Lotteries has the lowest player payout ratio of gaming and could lose business if forced to display payout rates. This would see their valuable contribution to NSW Government, which is used to fund core services such as public hospitals, diminish. Alternatively all gaming products could display the G-Line telephone number¹⁰³ as a free and confidential service for anyone who may need assistance for a gambling problem. The wallet sized G-Line information cards are particularly effective and venue operators should provide these or a similar product.

A simpler alternative to payout rates may be labels which inform players how long average play will last for a given amount of money. For example, \$20 inserted in say a 1 cent poker machine playing 3 lines at a time will on average be lost in 60 minutes. However, this is the average time and in reality play may last a lot longer or significantly less than the average. This may diminish the credibility of the information to the player.

Proponents for introducing labelling believe that full information may deter the gaming of material amounts. Opponents of greater labelling believe that labels are ineffective on problem gamblers who are very unlikely to be deterred by greater information or warnings.

Recently produced Club Keno tickets display the message;

Your best bet is the one you can afford.

The Keno slogan is potentially more effective because it is understandable and succinct.

Recommendation 5.4

The Tribunal recommends that the gaming industry improve the effective usage of signs, labelling and brochures. The Gaming and Liquor Agency should consider measures to encourage the provision of more useful consumer information to participants of gaming at the point of purchase.

5.6 The need to enforce the prohibition of gaming on credit

Various statutes expressly prohibit gaming venue operators from providing credit or cash advances to patrons for the purpose of gambling.¹⁰⁴ The purpose of these provision is to prevent a gambler from incurring a debt with the venue provider. Breaching these provisions is not a criminal offence yet it does constitute a breach of the certificate of registration or the liquor licence. The DGR normally issues a 'Show Cause Notice' for breaches of the ban on credit betting, considers the venues' response and then considers whether further action is possible or warranted. In their submissions Wesley, PIAC and BetSafe all indicate that despite the numerous cases of venues providing credit for betting,

¹⁰³ The G-Line telephone number is 1 800 633 635.

¹⁰⁴ See Section 9A(5A) of the Registered Clubs Act (1976) and Section 20(4A) of the Liquor Act (1982).

the DGR has never achieved court imposition of fines or the closing of a venue for allowing credit gambling.¹⁰⁵ Yet, there may sometimes be good reasons why the Department has difficulty pursuing a court action. (eg venues settling out of court or individuals being unwilling to press charges for fear of identifying themselves as a problem gambler).

For the majority of players gambling is a form of entertainment. In modern society, the use of credit (usually in a responsible way, but not always) is a way of life. Just about all other forms of entertainment can be purchased on credit. Yet for some gambling is a problem. For this group of people the provision of credit for the purposes of gambling can cause major difficulties. No doubt this is the reason why the legislation prohibits credit gambling.

However, credit betting is difficult to detect as initially both the venue operator and the patron agree to disguise the transaction. Anecdotal evidence suggests it is often the medium or small size registered club or hotel where there may be an absence of strict accounting procedures where credit betting occurs. Examples of illegal credit betting are:

- Processing a credit card transaction as 'accommodation' or 'food and beverage' and providing the patron with cash to gamble.
- A patron with insufficient funds may ask a venue to hold their cheque(s) as 'security' for extended periods and provide cash to gamble to the value of the cheque(s). The patron may often intend to 're-purchase' the cheque from the gaming venue at a later date.
- A patron may have a general purpose account (*a slate*) with a venue for say food and beverage which could also be utilised to provide credit for gambling.

IPART notes that it is legal to withdraw cash from a credit card account via an ATM at a gaming venue, yet it is illegal to provide cash from a credit card account by processing a transaction as a purchase through an EFTPOS facility, and providing the patron with the equivalent cash amount.¹⁰⁶ Gaming patrons may also access personal or business overdraft accounts via ATMs or EFTPOS. Similarly, it is not illegal for a patron to obtain credit from other sources such as a finance company to use for gaming. These distinctions are slight and may be confusing for customers.

Consequently, under current inspection procedures, breaches of the ban on credit betting are usually only detected when the patron cannot meet the payments for the credit.

Anecdotal information suggests that illegal gambling providers such as SP bookmakers make greater use of credit betting as an attractive feature to lure problem gamblers. The Casino Community Benefit Fund Study No 2 notes that illegal gambling 'undoubtedly exists' yet concluded that 'there seems little doubt that the proliferation of legal forms of gambling has had the effect of shrinking this illegal area of activity'.¹⁰⁷ Government should continue to ensure illegal gambling providers are closed down and convicted.

PIAC suggests that the lack of enforcement of the credit prohibition¹⁰⁸ may be caused by a lack of clarity in the way the relevant section has been drafted:

... an explanation for the approach taken by the Department [of Gaming and Racing] in relation to s 9A(5A) may be that there is still some uncertainty about the exact meaning of the provision.

¹⁰⁵ See submissions to IPART from BetSafe Group of Clubs (p 6), PIAC (p 2) and Wesley Gambling Counselling Service.

¹⁰⁶ Department of Gaming and Racing, Information Sheet 14/97.

¹⁰⁷ Casino Community Benefit Fund Study No 2, June 1998, p 23.

¹⁰⁸ Submission to the Gaming Inquiry, PIAC August 1998, p 2.

Recommendation 5.5

The Tribunal recommends that the GLA review section 9A(5A) of the Registered Clubs Act and section 20(4A) of the Liquor Act to ensure that the provision of credit by gaming providers for the purposes of gambling is clearly and unambiguously prohibited.

5.7 Improved consumer protection

Several pieces of legislation provide consumer protection measures. They include: the Trade Practices Act, the Fair Trading Act, The Contracts Review Act and the Credit Act. This legislation makes reference to prohibitions on misleading and deceptive conduct, unconscionable conduct, false representations, the offering of gifts and prizes and restricting the circumstances and manner in which credit can be offered and provided.

PIAC's submission expressed concern at the lack of enforcement of consumer protection:¹⁰⁹

The regulator charged with the responsibility of administering the relevant NSW consumer protection legislation is the Department of Fair Trading. Nevertheless, this Department appears, either for resource reasons or as a matter of demarcation, to regard the principle responsibility to lie with the Department of Gaming and Racing. Such might be acceptable if the Department actually accepted that responsibility and was aware of the legislation and sought to ensure compliance with it. However, at present it appears that is not the case.

Enforcement of the consumer protection legislation should certainly assist with fostering responsible gaming. It may be that greater use of the Trade Practices Act's provisions on unconscionable conduct is required. Attachment 5 provides a summary of unconscionable conduct as prohibited by the Trade Practices Act.

An effective gaming complaints mechanism is also a critical part of ensuring satisfactory consumer protection. Gaming complaints can involve a range of issues such as payouts from malfunctioning gaming machines and disputes involving random jackpot entitlements. Currently the Department of Gaming and Racing will investigate customer gaming complaints. The Department has a dedicated Complaints Unit within its Compliance Division consisting of 6 staff which assesses and processes complaint, and maintains a complaints register.¹¹⁰ However, some submissions to IPART believed that the Department had not been effective in this role.¹¹¹ In 1996/97 the Department resolved 70% of complaints within 10 days and is targeting resolution of 90% within 20 days.¹¹² IPART supports the GLA having an effective complaints mechanism. **If a dispute can not be resolved to the satisfaction of the customer, the codes of conduct should require venues to provide the contact details of the Complaints Unit to the customer.** Additionally, the availability of services provided by the GLA Complaints Unit should be publicised within mandatory responsible gaming signage.

The level of consumer protection at Star City is generally higher than for hotels and clubs. To handle complaints the DCS has an office on site and a customer booth on the main gaming floor which is staffed during peak periods. Complaints are relatively low due to the capacity to use video replays of most table game disputes.

¹⁰⁹ PIAC Submission to IPART, August 1998, p 3.

¹¹⁰ The Department of Gaming and Racing Complaints Unit can be contacted on (02) 9995 0828.

¹¹¹ Submissions to IPART including PIAC, p 2 and Wesley Gambling Counselling Service, p 13.

¹¹² Department of Gaming and Racing Annual Report 1996/97, p 69.

Recommendation 5.6

The Tribunal recommends that the Gaming and Liquor Agency be the lead agency for enforcement of consumer protection. The Agency should be adequately resourced with the appropriately trained staff to ensure that consumer protection is enforced. The Gaming and Liquor Agency needs to ensure that the Complaints Unit is effective in protecting consumers and is adequately promoted and resourced.

5.8 Responsible provision of complimentary inducements

Several submissions to IPART contend that providing some types of complimentary inducements such as providing free alcoholic drinks to patrons who are gambling may impair judgement.¹¹³ People may then stake higher amounts than they may have without the alcohol. Other forms of inducement include 'shopper docket' and letter box flyers which offer 'free' poker machine credits at participating hotels and frequent player schemes.

Several callers to the NCOSS gambling hotline expressed concern that clubs providing subsidised food, such as \$1 meals, provided a strong inducement to gamble.¹¹⁴

Many submissions expressed grave concerns over inducements. For example the Smith Family states:¹¹⁵

We believe that inducements of this kind [shopper docket and letter box flyers] promote unreasonable expectations of a cost "free" or heavily subsidised undertaking – when in all probability their involvement will incur them some substantial expense.

Studies have detected a correlation between alcohol consumption and amounts lost in gambling. A small study of 40 males by the University of Western Sydney found that gamblers who had three alcoholic drinks spent twice as long gambling as non drinkers and 50% only ceased gambling when they had lost everything. By comparison, only 15% of non-drinkers gambled away all their money.¹¹⁶ However, a great deal of weight cannot be placed on this small survey.

Restricting the offering of inducements by venue operators may be very difficult to enforce. Rather than legislate for the banning of inducements, which in all likelihood may not be enforceable, IPART supports limiting inducements via codes. However, these limitations should not apply to high roller gambling (see Section 5.8.1).

Recommendation 5.7

The Tribunal recommends that industry codes of gaming conduct explicitly define:

- ***limits on the provision of free alcohol to gamblers;***
- ***responsible practices for frequent player point schemes.***

Recommendation 5.8

The Tribunal recommends that industry gaming codes exclude the use of inducements such as 'shopper docket and letter box flyers'

¹¹³ Submissions including Wesley Gambling Counselling Service p 7 and The Smith Family p 2.

¹¹⁴ NCOSS, Community views on gambling, Report from NCOSS Gambling hotline (held on 8 September 1998), p 7.

¹¹⁵ The Smith family submission to the gaming Inquiry, August 1998, p 8.

¹¹⁶ University of Western Sydney, Mark Dickerson and Andrew Kyndgdon, September 1998.

5.8.1 Gaming by high rollers

A “high roller” is a gambling industry term used to describe a gaming participant who stakes large amounts of money. High rollers are also commonly called “premium players”.¹¹⁷ Naturally within the high roller category there is also wide variation in the average stake.

Given most gaming machines have a \$10 bet limit, high roller gaming is almost exclusively the domain of casino table games. Star City operates the *Endeavour Room* as a members only high roller gaming facility. The minimum bet in this facility is \$50. Within the Endeavour Room are private rooms for top premium players.

IPART acknowledges that the provision of complimentary goods and services to high rollers is governed by different rules than for other gamblers and this should continue.¹¹⁸ High roller gaming is a different market segment, yet the onus should still remain on the casino or venue operator to ensure that gaming by high roller players is carried out in a responsible manner.

5.9 Exclusion, self-exclusion and third party exclusion

Exclusion orders apply when a venue no longer permit a particular person to enter. Exclusions are issued by gaming venues for a number of reasons, including: minor assault, gaming related incidents, theft related incidents, disorderly conduct, and leaving children unattended. Patrons should continue to be excluded from venues if they attempt fraud or interfere with the enjoyment of other patrons.

Self exclusion is the term given to the situation where the patron of a venue acknowledges that they have a gambling problem and voluntarily seeks the assistance of the venue operator to prevent them from gaming at the facility. Self-exclusion is a program of merit as it often symbolises recognition that a problem exists. It can be a turning point whereby rehabilitation is commenced. All gaming facilities should be encouraged to offer self-exclusion programs to patrons who are problem gamblers.

The ability of venues to enforce exclusion and self exclusion programs requires a simple agreement signed by the gambler and the venue formalising the exclusion, a photographic register of people concerned, and the commitment of venue management and security staff to enforce the programs. For example, venue management must ensure excluded patrons are removed from promotional mailing lists.

IPART notes that the practical ability of Star City to enforce both exclusion programs is limited by the building design, which features 26 entry points, and the size of the security division (over 200 staff). Similarly, the effectiveness of exclusion and self-exclusion is limited because the problem gambler can often go to other gaming venues. However, a system of universal exclusion would be very difficult to administer and enforce.

Exclusion and self-exclusion programs should form part of codes and eventually legislation. In the interim individual venues should develop self-exclusion programs. Any patrons seeking self-exclusion should be expeditiously registered and given advice on where to seek treatment. Additionally, venue management should be encouraged to follow up self-

¹¹⁷ See Crown Casino Limited Annual Report 1996/97, p 8.

¹¹⁸ see section 76 of the Casino Control Act (1992).

excluded people to re-affirm the need for them to seek treatment and to check that the former patron is not in distress.

IPART is concerned that people who have been granted self-exclusion from Star City are fined (currently \$2,200) under the CCA Act for seeking re-admittance to the casino.¹¹⁹ Although the fine can act as a deterrent, people who seek re-admission may be unable to afford a fine of this size. IPART seeks consideration of amending the CCA Act to give the judge the discretion of either imposing the fine or requiring the person to spend the same funds on treatment.

Third party exclusion

Third party exclusion is a proposal which would involve giving the family of a problem gambler the right to have them excluded from a venue.

The Queensland Government's Internet gaming legislation (1998), in a national first, enables third party exclusion. Whilst at first thought, third party exclusion may seem an infringement on civil liberties, the concept has some merit and requires further consideration. Often the first contact with problem gaming service providers is made by a family member. On the other hand, a right to third party exclusion, if available, might sometimes be exercised inappropriately. IPART suggests that the government monitor the effectiveness of the Queensland model for third party exclusion.

5.10 Availability of professional counselling

Professional counselling for problem gambling is one method which can moderate the behaviour of problem gambling. Yet whether professional counselling is a more effective treatment for problem gambling than say a comprehensive self-help program (such as Gamblers Anonymous) is yet to be tested. It is likely that different treatments will have different levels of effectiveness depending on the individual. Consequently, a variety of treatment methods will need to be accessible.

Most industry participants believe that professional counselling needs to be accessible and available where required. Most venue operators are aware that G-Line provides a system of referrals to obtain assistance with problem gambling. Star City also offers a one-off counselling service to patrons who become emotionally distressed whilst at the casino. Other gaming venues need to ensure procedures are established for emotionally distressed gamblers.

5.10.1 G-Line

G-Line provides telephone crisis counselling and a referral service for problem gamblers and anyone affected by their behaviour. G-Line utilises a free call service (1 800 633 635) and an Internet web site to facilitate access to services (www.g-line.org.au). G-Line services are confidential, available 24 hours a day, calls do not appear on your telephone account and are anonymous. A multilingual service is also available. During 1998, G-Line has been receiving approximately 500 calls a month from NSW.¹²⁰

¹¹⁹ section 84 of the Casino Control Act (1992).

¹²⁰ Star City submission to the Productivity Commission Inquiry Into Australia's Gambling Industries, October 1998, p 22.

G-Line is staffed by professional psychologists, social workers and counsellors. Referrals are subsequently arranged for face to face counselling. Services available include;

- Government funded specialist problem gambling services.
- Financial counsellors.
- Lawyers and other support services.
- Consultancy service for industry training and clinicians.

Of concern to IPART was that several submissions to this Inquiry gave negative views on the performance of the G-Line service.¹²¹

5.11 Research into gambling

A common theme of submissions to this Inquiry has been the lack of useful research into the gambling industry. It is difficult to assess which measures help foster responsible gaming as there is very little research available on the effects of gambling and measures that succeed in promoting responsible gaming. Additionally research is required into several topics including why people gamble, why gambling becomes a problem for some people, prevention methods and the appropriate level of government funding for problem gambling support services.

IPART believes that there is a need for greater research on which treatments for gambling problems work best as well as ongoing analysis on extent of problem gaming. This view is supported in the submission from the Australian Medical Association.¹²²

IPART notes that a large proportion of research to date has focused on estimating the proportion of problem gamblers in society. Whilst it is useful to have several quantifications estimating the extent of problem gambling, research into the optimal methods of treatment is now preferable.

Clearly a coordinated research effort is highly desirable to ensure efficient and effective research expenditure. IPART believes that the GLA is best placed to co-ordinate research. The GLA should establish specific research priorities in consultation with ILGCA.

IPART believes that the ILGCA would commission focused research related to the social and economic impacts of gaming. The ILGCA should review the overall effectiveness of the research effort. The CCBF should continue to be the primary source of funding for problem gambling research. The CCBF (or its successor) should progressively fulfil the research priorities established by the GLA when recommending the funding of individual projects.

Recommendation 5.9

The Tribunal strongly recommends that the Gaming and Liquor Agency immediately commence coordinating research into gaming. The Agency should develop a strategic plan in consultation with the community and industry and then tender to have this research undertaken over the next 3 years.

¹²¹ Submissions to IPART including Gamblers Helpline.

¹²² AMA submission to IPART August 1998, p 3.

5.12 Problem gambling support

A large range of voluntary and privately provided support programs are available. However, problem gamblers often have difficulty finding the most suitable program quickly. Hence, IPART supports greater co-ordination of services. As a starting point, a register of the main service providers, the services offered and contact details needs to be distributed to venue operators, general medical practitioners, religious groups etc. Services and co-ordination of services for problem gamblers are discussed in Section 6.

5.13 Employees of gaming venues

Several submissions to IPART recount how employees of gaming venues have developed gambling problems. Other submissions cited concerns regarding employees who had fraudulently abused their positions to gamble using venue funds.¹²³ IPART shares these concerns and agrees that the risks of collusion and susceptibility to problem gaming by employees necessitates that employees are banned from gaming on their employers premises. Supporting this position is the BetSafe Group¹²⁴ of clubs which is currently implementing a policy to ban employees from gaming within their venue of employment. Similarly the CCA Act prohibits licensed employees of Star City from gambling at its facilities.¹²⁵

IPART acknowledges that in small rural towns with few gaming venues, banning employee gaming may be less fair due to the absence of alternate gaming venues.

Recommendation 5.10

IPART recommends that all employees be prohibited from gaming within their employers' premises. Venues in towns of less than, say 1000 people could be exempted from this prohibition.

5.14 Family protection

Several submissions to IPART provide insights into the plight of the families of problem gamblers. A common theme of these submissions is that problem gamblers often will not admit that they actually have a problem. The submissions sought changes to enable family members to compel a problem gambler into a treatment program and to enable the family to have a problem gambler excluded from a venue (third party exclusion see Section 5.9).

NSW Health and other stakeholders suggested that attempting changes to the Mental Health Act or guardianship laws is impractical and would encounter strong objections from civil libertarian groups.

Recommendation 5.11

The Tribunal recommends that an information course for family members be developed featuring strategies on understanding the problem, how to protect assets and how to reduce the access to funds.

¹²³ Submissions to IPART including the BetSafe Group of Clubs.

¹²⁴ BetSafe is a coalition of 9 of the 30 largest clubs in NSW.

¹²⁵ Under section 86 of the Casino Control Act (1992).

5.15 Access to automatic teller machines (ATMs)

The RCA and Star City's codes of responsible gaming require ATMs to be off the gaming floor or in another room such as in the reception area. Similarly, the Department of Gaming and Racing's best practice guidelines for ATMs also suggest locating ATMs outside the gaming areas.¹²⁶ This is intended to give the problem gambler more time to ponder the implications of increasing her/his expenditure.

Recommendation 5.12

IPART supports codes of gaming conduct requiring that ATMs be positioned in a room away from the gaming floor.

Note acceptors

A growing proportion of gaming machines now utilise note acceptors whereby the gambler can invest and re-invest without leaving the machine. Whilst this offers convenience, a concern is that gaming venue operators report that machines with note acceptors have the highest gaming revenue. Removing the need for patrons to seek more change may reduce the potential for gaming venue staff to observe problem gambling characteristics. The effect of note acceptors on average expenditure and problem gaming habits warrants greater monitoring.

Responsible payment of winnings

At the opposite end of the spectrum, the responsible payment of winnings is another important issue. The Victorian Code of Gaming Conduct (Section 4.7) requires venues "to encourage patrons with large collects to have a cooling off period and to take payment by cheque." IPART supports these measures, because reinvested wins constitute a high proportion of total losses.

5.16 The design of gaming venues

Some submissions to IPART express the view that the design of venues can affect the potential for patrons to experience difficulties with gambling.¹²⁷ However, the relationship between venue design and the level of problem gambling has not had sufficient research. Several submissions seek;

- limits on the proportion of floor space which can be dedicated to gaming machines
- provision of comfortable lounge areas free from exposure to gaming
- greater natural light inside venues to remind patrons of activities outside the venue
- a move away from decor which is illusionary or fanciful
- provision of clocks to enable patrons to better monitor the time they spend gaming.

The hotel sector already has a floor space requirement whereby only five gaming machines may be operated within the public bar area. Hotels with more than five machines must operate them in a dedicated gaming room which is not visible from the street. The number

¹²⁶ Department of Gaming and Racing, Information Sheet 14/97.

¹²⁷ Submissions to IPART including NCOSS, NSW Department of Women, GAME (a proGramme for gAmlers & their faMilies with problEms), Women and Gambling Project, Shoalhaven Parents & Partners of Problem Gamblers.

of gaming machines which hotels may operate is also capped at a maximum of 30. This has the benefit of restricting the amount of total floor space dedicated to gaming.

The Victorian Code of Conduct (Section 4.3) requires venues 'to ensure that gaming machine play is conducted as an ancillary activity to a reasonable range of traditional hospitality services.' Similarly (Section 3.3.2) of the code restricts machines 'to bona fide hotel venues providing an appropriate mix of customer facilities.' IPART supports the adoption of similar themes within NSW codes. The capacity of venue design to alter the prevalence of problem gambling is an issue requiring research.

Recommendation 5.13

IPART supports greater research on the relationship between gaming venue design and the level of problem gambling. Research should specify design features which foster a more responsible gaming environment. The desirable features could then be included in gaming codes of conduct with venues given a transitional period to meet the code standards.

5.17 Community consultation

As detailed in section 2, NSW has 10% of the world's gaming machines, a high profile casino, and a well developed lotteries product market. On average, NSW adults lose over \$700 pa to the gaming industry. Access to gambling has increased steadily over the past few years. Concerns over the impacts of gambling are increasingly being expressed by all sectors of the community (see section 7).

This inquiry has received a large number of submissions. This indicates the high level of public interest in gaming regulation and the social impacts of gaming. A diverse range of submissions seek opportunities to express views to Government on proposed gaming policy changes on an ongoing basis.¹²⁸

Recommendation 5.14

IPART recommends that the new Gaming and Liquor Agency should place greater emphasis on obtaining community input into the development of gaming related policies. One way of achieving this, is to establish a community consultation committee.

¹²⁸ Submissions including Anglican Church Diocese of Sydney, NCOSS, Australian Hotels Association, the Australian Gaming Machine Manufacturers Association.

6 GAMBLING SUPPORT SERVICES AND RESEARCH

The fifth term of reference for this inquiry requires IPART to investigate the,

5. co-ordination of problem gaming support services and research centres to address problem gaming

6.1 Defining problem gaming

Defining what level of gambling constitutes problem gambling is extremely difficult as individuals have diverse disposable incomes and react differently to spending long periods of time gambling. One method of identification is the Gamblers Anonymous (GA) twenty question test. The GA test is contained in Box 5 below.

Box 5 The Gamblers Anonymous Test to Identify Problem Gamblers

Gamblers Anonymous (USA) utilises 20 questions help identify anyone who may have a gambling problem. These questions are provided to help the individual decide if he or she is a compulsive gambler and wants to stop gambling.

TWENTY QUESTIONS

1. Did you ever lose time from work or school due to gambling?
2. Has gambling ever made your home life unhappy?
3. Did gambling affect your reputation?
4. Have you ever felt remorse after gambling?
5. Did you ever gamble to get money with which to pay debts or bills?
6. Did gambling cause a decrease in your ambition or efficiency?
7. After losing did you feel you must return as soon as possible and win back your losses?
8. After a win did you have a strong urge to return and win more?
9. Did you often gamble until your last dollar was gone?
10. Did you ever borrow to finance your gambling?
11. Have you ever sold anything to finance gambling?
12. Were you reluctant to use "gambling money" for normal expenditures?
13. Did gambling make you careless of the welfare of your family?
14. Did you ever gamble longer than you had planned?
15. Have you ever gambled to escape worry or trouble?
16. Have you ever committed, or considered committing, an illegal act to finance gambling?
17. Did gambling cause you to have difficulty in sleeping?
18. Do arguments, disappointments or frustrations create within you an urge to gamble?
19. Did you ever have an urge to celebrate any good fortune by a few hours of gambling?
20. Have you ever considered self destruction as a result of your gambling?

Most compulsive gamblers will answer 'yes' to at least seven of these questions.

Source: <http://www.gamblersanonymous.org/20questions.html>

Whether a financial loss from gaming is significant to a person is a question of relativity. If a survey asked people to nominate the level of loss (as a % of disposable income), which they regarded as a problem, a wide variety of answers would be received.

People often begin to lose control of their gambling when other difficulties in their life become compounded. G-Line identifies the following as signs which indicate which players are at higher risk of becoming a problem gambler:¹²⁹

- getting very excited while gambling
- easily influenced by peers
- using gambling to solve other problems
- having few fun activities in their lives
- feeling bored and lonely.

G-line identifies the following symptoms of problem gambling:¹³⁰

- gambling more money than affordable
- borrowing money to gamble
- gambling to win back losses
- believing that this time, they will win for sure
- lying to their friends and family.

6.2 The effects of problem gambling

Problem gambling can lead to all sorts of consequences beyond financial difficulties. Some of the consequences G-Line identifies that a person affected with problem gambling can suffer are,¹³¹

- feelings of loneliness and isolation from family and friends
- a decline in work performance and other obligations as they are unable to concentrate
- stress induced health problems and loss of sleep causing irritability
- lack of understating of the extent of time and money spent on gambling
- major financial difficulties
- loss of control can trigger feelings of guilt and desperation
- thoughts of suicide.

Most symptoms of problem gaming are not easily identifiable by gaming venue staff.

6.3 Support services for gambling related problems

Support services for people affected by problem gambling are provided by both government and non-government organisations (NGOs) with the vast majority of services provided by NGOs. Examples of NGOs include:

- psychiatrists and general practitioners
- voluntary groups such as GA, and Gamblers Help Line

¹²⁹ G-Line brochure, *The line between winning and losing*, Prepared by the Addiction Research Institute, 1998.

¹³⁰ Ibid.

¹³¹ Ibid.

- religious and welfare groups such as Wesley, The Smith Family and St Vincent de Paul
- some specialist private hospitals such as South Pacific, St Edmund's and St John Of God.

NSW Health provides a limited range of treatment and counselling interventions including: hospital treatment, community health centres, and drug and alcohol related services. DOCS also provides an extensive range of community assistance projects to over 1,700 community organisations.¹³²

A significant proportion of people affected by problem gambling appear to resolve this problem without formal treatment. Often it is family members who are the main source of assistance for problem gamblers.

Submissions to this inquiry have presented different views on the most appropriate methods of treatment and support. NSW Health suggests that further research is required to determine the appropriateness of different support services in terms of cultural, social and community needs.¹³³ Shoalhaven Parents and Partners of Problem Gamblers suggests:

Support needs to be specialised, varied and appropriate. A variety of interventions need to be available to both problem gamblers and their families members. Counsellors need to have gambling specific education. Gambling specific services need to be resourced properly both financially and with enough personnel to treat the problems in a timely manner. They need to be holistic in approach and have an integrated service including financial counselling, personal counselling and other strategies.¹³⁴

Several submissions support the need for quality controls on problem gambling counsellors.

Professor Jan McMillen from the Australian Institute for Gambling Research (AIGR) submits that AIGR recent research indicates a lack of knowledge in the community, professionals and industry about where local support services are located. Professor McMillen recommends that:

An updated register of relevant community agencies, organised on a regional basis, be compiled and maintained (a statewide referral directory).¹³⁵

Clearly a wide variety of support services are available, however, submissions to this review highlighted several areas where they considered support services were inadequate including:

- Some regional and rural centres¹³⁶ .
- Services for specific ethnic groups.
- Residential services for severe problem gamblers¹³⁷ .

¹³² DOCS submission to IPART, October 1998, p 8.

¹³³ NSW Health Department Submission to the Gaming Inquiry, September 1998, p 3.

¹³⁴ Shoalhaven Parents and Parents of Problem Gamblers, Submission to IPART, September 1998, p 2.

¹³⁵ Professor Jan McMillen, Australian Institute for Gambling Research Submission to IPART, August 1998, p 15.

¹³⁶ For example, the NCOSS submission to IPART stated the North Coast region was chronically short of problem gambling support services.

¹³⁷ See Report from NCOSS Gambling Hotline, *Community Views on Gambling*, 8 September 1998, p 6.

6.4 Level of co-ordination of problem gaming support services and research

Co-ordination refers to the bringing together of components. A co-ordinated approach can deliver a balanced and effective range of services. Several submissions to this review stated that there are few links between problem gaming service providers.¹³⁸ Co-ordination is necessary so that a problem gambler receives the most appropriate form of treatment given their severity, location and circumstances.

At the simplest level co-ordination involves each service provider knowing what are the specialties of the other service providers. For example, General Practitioners (GPs) are often the first to become aware that a patient may be suffering from gambling related problems and should be able to refer them to the most appropriate specialised service provider. The Australian Medical Association (AMA) has funding for a GP problem gambling awareness campaign. As part of this project AMA has collected information on all gambling related services providers known to them, with a goal of producing a detailed resource book for GPs. The AMA notes that:

Due to a lack of co-ordination in service provision we [AMA] are unable to ensure this list is a comprehensive one. Nor, more importantly, are we able to advise general practitioners as to the competency or otherwise of those agencies or the individuals who are employed within them.¹³⁹

A large number of submissions to this inquiry are concerned about the apparent lack of co-ordination of services. For example, the Anglican Church Diocese of Sydney states:

One of the most common criticisms of problem gambling services in NSW is their lack of co-ordination.¹⁴⁰

This view is supported by many others including Woman and Gambling project – a project of Northern Suburbs Community Development Inc.

Currently there are few links between gambling service providers and consequently there is little awareness of services provided by different organisations. There is no formal network for exchange of information, co-ordination of service provision and identification of gaps in service.¹⁴¹

Professor Mark Dickerson, Tattersall's chair in Psychology University of Western Sydney submits that:

In NSW there exists neither a strategic plan for state-wide services nor an identified process/personnel to develop and manage such a service.¹⁴²

NSW Health also emphasises the importance of co-ordination:

A joint human services/local government/non government response would avoid competition for new funds, facilitate joint priority setting and enable effective partnerships to develop to address community specific issues.¹⁴³

¹³⁸ Submissions to IPART including the NSW Department for Women.

¹³⁹ Australian Medical Association, Submission to IPART, August 1998, p 4.

¹⁴⁰ Anglican Church Diocese of Sydney, Submission to the gaming Inquiry, September 1998, p 5.

¹⁴¹ Northern Suburbs Community Development Inc, submission to the Gaming Inquiry, August 1998, p 3.

¹⁴² Professor M Dickerson, Submission to the gaming Inquiry, August 1998, p 3.

¹⁴³ NSW Health submission to IPART, August 1998, p 2.

As for research, Wesley submits:

Whilst there have been a multitude of research projects into problem gambling, research largely suffers from being fragmented and too academic.¹⁴⁴

The Australian Institute for Gambling Research (AIGR) has begun a program aimed at improving the co-ordination of research and assistance measures. The program includes active collaboration on AIGR research with government, industry and community representatives, and other researchers.¹⁴⁵

To date, the Department of Gaming and Racing has not viewed its current role as including co-ordination of service providers and research. Yet, no other government or non government agency is currently acting in this capacity. Clearly, co-ordination is required to ensure that for both gambling support services and research:

- there is sufficient support services throughout the state and that there is no unnecessary duplication of services within an area
- appropriate research is undertaken.

Recommendation 6.1

IPART recommends that responsibility for co-ordination of problem gambling research is allocated to the new Gaming and Liquor Agency.

6.5 Funding arrangements for services and research

The principal source of funding for research, education, awareness, counselling, treatment and rehabilitation activities relevant to gambling in NSW is the Casino Community Benefit Fund (CCBF). The CCBF is administrated by trustees appointed by the Minister. The Trustees are representatives from Wesley Mission, The Salvation Army, the Society of St Vincent de Paul, the Uniting Church in Australia, ethnic communities, the Department of Education and Training, NSW Health, the Department of Community Services and the Department of Gaming and Racing. The DGR provides a small administrative secretariat for the fund.

Other sources of funding for services and research include individual gaming operators, DOCS, NSW Health, universities and welfare groups. Also from February 1998, over 440 clubs with gaming turnover in excess of \$1m pa have the option of receiving a tax reduction by spending up to 1.5% of their gaming machine profit (over \$1m pa) on specific community welfare and social services (see section 6.6.2).

The CCBF comprises an amount which is equivalent to 2% of the gross annual gaming revenue of the Sydney casino. Substantively, the levy is part of the overall taxation arrangements that apply to Star City. In effect, the Government hypothecates a portion of casino revenue towards rehabilitation activities relevant to problem gambling and community projects.

The CCBF Trust Deed vests the Trustees with responsibility for obtaining applications from persons and organisations seeking funding, and advising applicants of the outcome of their

¹⁴⁴ Wesley Gambling Counselling Service, Submission to IPART, August 1998, p 21.

¹⁴⁵ Professor Jan McMillan, Australian Institute for Gambling Research, Submission to IPART, August 1998, p 20.

applications. Importantly the Trustees do not see their role as the lead coordinator for support services or research. The CCBF has five principal objectives.

1. To fund relevant research into gambling and the social and economic impact of gambling on individuals, families and the general community of NSW.
2. To promote industry and community awareness of problem gambling and associated activities through carefully structured education campaigns.
3. To support voluntary organisations which are equipped to offer constructive counselling services to problem gamblers and members of their families.
4. To support treatment and rehabilitation services for problem gamblers and their families.
5. To fund other community projects and services determined by the Trustees to be of benefit to the community in general.

The CCBF's vision as stated in its 1997-99 Strategic Plan is

To reduce the negative impact of gambling and to also benefit the people of NSW through the responsible administration of the Fund.

The CCBF strategic plan also establishes a long term target of allocating up to 20% of funding to community projects. During 1997/98, \$9.6m was paid by the government to the CCBF for distribution.

6.6 Who should coordinate services and research?

In both Victoria and Queensland, support services and research are coordinated by specialist government agencies. For example, in Victoria the Department of Human Services has a problem gambling services strategy which aims to:

- Provide a highly visible, accountable, professional and accessible counselling and referral service.
- Provide an effective community education program for the broader community, including health practitioners, the legal profession, the banking and insurance industries and the gaming venues.
- Conduct research into the effects of gambling on individuals and families to assist the planning of future service provision.

While submissions strongly argued for co-ordination, submissions differed as to who should be responsible for co-ordination of both services and research. For example, Professor Mark Dickerson concluded:

....that either the Department of Community Services or the Department of Health should hold the mandate to develop a strategic plan for (and subsequently to manage) services for problem gamblers and their families.¹⁴⁶

Others such as Wesley, NCOSS and the Anglican Church suggested that a Gaming Commission should be the responsible body.

¹⁴⁶ Professor M Dickerson, Submission to IPART, August 1998, p 4.

NSW Health, does not see itself as the lead coordinator but rather sees itself in partnership with other significant service providers, assisting with expert advice on the development of a policy framework in relation to problem gambling advice, assessment and treatment services and in the decision making process for the allocation of any funds to services or research.

However, NSW Health may be the most appropriate agency to undertake this co-ordination role. NSW Health currently has a co-ordination role in relation to alcohol and drugs. There may be significant synergies between this work and gambling related services and research.

In its submission, the Department of Community Services (DOCS) suggests:

DOCS has an existing infrastructure which manages the Government's funding relationship with approximately 1,700 community organisations, embracing around 3,000 separate projects. This relationship involves collaborative planning and community consultation at local level, as well as performance and financial accountability. We believe that these processes work effectively in both metropolitan and rural locations. We have the planning, administrative and accountability mechanisms in place which could easily be expanded.

If the community fund is not closely integrated into the planning system which DOCS manages at local level, decisions about which services to fund will, inevitably, undermine DOCS' attempts to ensure comprehensive local assessment of community services needs. If, on the other hand, the funds are agreed, we can provide geographic equity and better meet the priorities identified in the Government's social justice policy.

The Smith Family supports a co-ordination role for DOCS:¹⁴⁷

It seems appropriate that these [support] services be primarily established and provided through an existing instrumentality with relevant expertise in the delivery of community welfare such as the Department of Community Services.

There seems to be merit in combining the responsibility for co-ordination of support services and research and administration of funding arrangements within the one organisation. While it is true that these functions can be carried out by separate organisations, IPART believes that there should be clear operational efficiencies if both functions are carried out together.

Concern has been expressed that both NSW Health and DOCS are likely to have conflicting priorities with other very worthwhile (core) programs that they are currently administering. If either of these organisation were to take prime responsibility for gambling issues then it has been put to IPART that the provision of problem gambling support services and research may not receive adequate funding or management focus.

IPART proposes that a Gaming and Liquor Agency (GLA) be established to fulfil both the regulatory and policy functions (including harm minimisation policies) for the gaming industry. IPART recommends that the GLA be the lead coordinator of support services for gaming related problems and research and provide the CCBF with appropriate administration. However, the GLA should ensure it closely consults with both NSW Health and DOCS in:

- Developing a policy framework in relation to problem gambling advice, assessment and treatment services covering all NSW, not just metropolitan areas.
- Developing a strategic plan for relevant gaming industry research.

¹⁴⁷ The Smith Family, Submission to the Gaming Inquiry, August 1998, p 12.

- Ensuring, as far as possible, that duplication is avoided and efficiencies in service delivery are maximised.

6.6.1 The operation of the community benefit fund

In the 4 years that the casino community benefit fund (CCBF) has operated, some stakeholders have been dissatisfied with the results. For example, claims have been made that there has been insufficient spending on support services for problem gamblers and their families, too much spending on general community programs, insufficient relevant research funded, lack of strategic planning and poor administration.

Many stakeholders have submitted to IPART that the problems of the CCBF can be addressed by additional funding. Most welfare agencies favour some hypothecation whereas NSW Treasury and several venue operators believe hypothecation results in a less efficient use of resources. Many submissions to this inquiry recommended adoption of the WA Lotteries Commission method of hypothecating all gaming revenue. This methodology is summarised in box 7 below.

The level of appropriate funding for a community fund and any potential recommendations to improve the operation of the scheme, in part depend upon whether money from such a fund should be solely used for:

- issues specific to the gaming industry such as services for problem gamblers and their families, prevention and education campaigns and research into gambling; and
- provide a benefit to the wider community (as recommended by Sir Laurence Street).¹⁴⁸

Box 7 The WA Lotteries Commission model of hypothecation

The WA Lotteries Commission (WALC) has the highest degree of funding hypothecation of gaming regulators in Australia. From sales of \$400m it paid prizes of \$225m (56%) commissions \$30m, expenses \$25m; leaving \$120m to distribute. Legislation requires WALC to pay 20% of sales without ties or conditions to Government Departments:

- * 16% of sales to the WA Dept of Health (\$64m)
- * 2% to Dept of the Arts (\$8m)
- * 2% to Dept of sport & recreation (\$8m)

The remaining funds (\$40m+) are distributed in a grants process directly by the WALC. Over 1,500 groups received funding totalling \$45.1m in 96/97. Grants are made following an annual application process. Grants are assessed for merit using several main categories including cultural, museums, emergency services, medical research, conservation, recreation for people with disabilities and heritage projects.

Source: WA Lotteries Commission Annual Report 1997/98.

IPART believes that the CCBF is a segment of government money which the government chooses to direct mainly to problem gambling research, support and rehabilitation. It would be inconsistent to allow the fund to develop into a general social funding body. Thus, the fund should be for gambling - related purposes only. This does not prevent subsidisation of general social services, but this should only be done for a gambling reason. Also of note is

¹⁴⁸ Report by Sir Laurence Street, *Inquiry into the Establishment and Operation of Legal Casinos in NSW*, 1991.

the view by DOCS that subsidising social services could undermine its comprehensive community service planning.¹⁴⁹

However, a major concern is that no-one really has any idea about what is an appropriate level of funding for gambling related services. In an attempt to gain this knowledge the Trustees of the CCBF recently completed a survey on the number of problem gamblers receiving counselling or treatment in NSW.¹⁵⁰ This report concludes:

It was estimated that the actual number of problem gamblers receiving counselling or therapy makes up 32% of the joint capacity of counsellors and therapists to provide quality treatment¹⁵¹.

The CCBF as well as funding support services can also fund prevention and education programs. To date, little funding has been provided for these two functions. Approximately \$9.6m pa was placed into the fund in 1997/98. Under the provisions of the Casino Control Act (under which the fund is established) the level of funding for the CCBF is due to be reviewed by the NSW Treasurer prior to 30 December 2000.

Ideally an appropriate amount of funding that is required to be spent on problem gaming support services and research should be identified. Each year funding up to this level could be provided by the Government and placed into a fund. However, given the current lack of data on appropriate levels of funding IPART recommends that the most practical solution is to maintain the existing funding arrangements until the CCBF funding is reviewed by the Treasurer in December 2000. By this time sufficient information should be available to determine an appropriate budget for the fund. This review should also take the opportunity to consider a more uniform arrangement for allocating tax revenues from all segments of the gaming industry.

Fund administration

It is clear from this inquiry that the CCBF requires a greater degree of administrative support than it has received in the past from the Department of Gaming and Racing. This support is best provided by the GLA. By contrast, it would be difficult to locate the Fund within the proposed ILGCA as there would be two independent bodies with an unclear reporting relationship between them.

In our system of government, Ministers are responsible to Parliament for spending public money. Thus, the final decision to grant monies should continue to be that of the Minister. In making that decision, the Minister may wish to be guided by a group such as the present trustees. This maintains a desirable degree of transparency.

Recommendation 6.2

The Tribunal recommends that:

- ***the current Casino Community Benefit Fund provide funding only for support services for gaming related problem, responsible gaming practices and general research into gaming***
- ***the benefit fund maintain its current level of funding until December 2000, when the appropriate level of funding and contributors is to be reconsidered***

¹⁴⁹ DOCS Supplementary submissions to IPART October 1998.

¹⁵⁰ *Problem Gamblers Receiving Counselling or Treatment in NSW*, Second Survey September 1998, Report to the Casino Community Benefit Fund Trustees prepared by Dr Michael Walker, Gambling Consultant University of Sydney.

¹⁵¹ *ibid* p 2.

- *the Gaming and Liquor Agency, in consultation with the ILGCA, formulate a set of priorities for problem gambling related research*
- *the Gaming and Liquor Agency both supply appropriate expertise to professionally administer the fund and coordinate gaming related support services and undertake research in close consultation with NSW Health and DOCS*
- *the Minister continue to approve the granting of monies from the fund based on the recommendations of a board of trustees.*

Recommendation 6.3

The Tribunal further recommends that as a priority the Gaming and Liquor Agency establish and maintain and publicise a register of relevant gambling support services on a regional basis.

6.6.2 The registered clubs Community Development and Support Expenditure system

The registered clubs and government in consultation with NCOSS, have established a system of Community Development and Support Expenditure (CDSE) system. The CDSE is a potential source of funding for problem gambling support services as well as community projects. The operation of the CDSE is defined under Section 87 of the Registered Clubs Act.

In October 1998, most larger clubs placed advertisements in their local newspapers announcing the availability of funding for community projects qualifying under the CDSE. IPART encourages problem gambling support providers and related community groups to pursue funding under the CDSE.

From 1 February 1998 Registered Clubs with gaming machines profits in excess of \$1m can elect to expend 1.5% pa of the profits over \$1m on specific categories of community projects.¹⁵² Clubs spending less than the 1.5% on approved projects will pay the difference as duty.¹⁵³ Clubs are required to satisfy the LAB, either through statutory declaration or substantiation that spending qualifying under the CDSE occurred to receive an offsetting decrease in duty.

IPART notes that most clubs give substantially more in community projects and the CDSE is a formalisation of part of this community support.¹⁵⁴

The CDSE has two defined categories of qualifying community expenditure and features a transition from category 2 toward category 1 funding. The two categories are;¹⁵⁵

1. 'specific community welfare, development, social services and employment assistance activities': for example child care, aged care, crisis counselling, youth drop-in facilities and job creation schemes. (a minimum of 0.42% rising to 0.75% by 30 November 2000)
2. 'other community development and support': amateur sport, educations, local council support and voluntary organisations (a maximum 0.83% reducing to 0.75% from 30 November 2000 with no minimum level).

¹⁵² The levy commences at a rate of 1.25% for the 10 months from 1 February 1998 to until 30 November 1998 and then is set at 1.5% per annum thereafter. Details of the CDSE are contained in NSW Government Gazette No 102, 3 July 1998, p 5, pp 295-5 and p 301 and Gazette No 132, 11 September 1998, pp 7499-7500.

¹⁵³ For more information see a Department of Gaming and Racing Information Sheet 4/98, October 1998.

¹⁵⁴ See the RCA submission to IPART, August 1998, p 13.

¹⁵⁵ Defined in the Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act (1998).

For example, a club generating a gaming machine gross profit of \$2m between 30 November 1998 and 30 November 1999 can elect to spend \$12,500 as a CDSE, made up of a minimum of \$4,200 qualifying as category 1 and maximum of \$8,300 as category 2.

In 1997/98 440 clubs earned more than \$1m in gaming machine profit which is likely to result in the establishment of 440 individual CDSE funds. Aggregate spending through the CDSE (or payments in offsetting duty) for the year to 30 November 1999 is likely to be between \$27m and \$30m.¹⁵⁶ Most of the individual CDSE funds will be small. The average individual club CDSE fund size is approximately \$65,000 whilst the median would be lower at between \$15,000 and \$20,000. The small size of most CDSE funds means that administration costs, although borne by each club, will be proportionately higher.

The clubs participating in the CDSE are required to consult the Department of Community Services. However, there is no requirement for consultation with the CCBF. **IPART is concerned that insufficient co-ordination will lead to a less efficient use of CCBF funds. The Tribunal has recommended that the GLA co-ordinate the provision of support services for problem gambling.**

IPART recognises that the CDSE scheme is a very recent development and was formulated following extensive consultation. The CDSE funds have an advantage in that funding is available to meet local needs. Yet IPART believes that in the longer term it would be preferable to operate a single community fund rather than a casino community benefit fund and over 440 individual funds, managed separately by each of the larger registered clubs.

Recommendation 6.4

The Tribunal recommends that Government consult with the club industry about ways to achieve a transition to a larger scale community fund. A review of the CDSE system should be held in conjunction with the review of the CCBF in December 2000. At a minimum this review should establish co-ordination of the CDSE funds and the CCBF.

¹⁵⁶ Forecast range is based on Department of Gaming and Racing information. If a 1.25% Community Development and Support Expenditure system operated between 1 March 1997 and 28 February 1998 it would have raised a total of \$26.1m.

7 SOCIAL IMPACTS OF GAMING

The terms of reference for this inquiry require IPART to:

Generally comment on the social impacts of gaming in NSW.

Gambling has a number of direct and indirect impacts on people as individuals, family members, local community members or as residents of NSW. The impacts can be both positive and negative. For example, gambling is regarded as a pleasurable activity or recreation by the vast majority of people. For these people the 'losses' from gambling are the cost of that form of entertainment. While gambling is an entertaining pastime for many people, it can also occasion some harm to particular gamblers and their families. The gambling industry also has impacts, both positive and negative on the NSW economy as a whole.

The short timeframe for this inquiry prevented IPART conducting a social and economic analysis of the gaming industry. Instead IPART has considered information in submissions, hearings and meetings. Reference has also been made to the limited research that has been carried out in this area. Additionally, IPART assisted in funding NCOSS to undertake a 'gambling hotline' to obtain community views on gambling.¹⁵⁷ This study found strong concerns about the social impacts of gambling.¹⁵⁸

The Productivity Commission has recently commenced a detailed examination of gambling (including wagering).¹⁵⁹ The Productivity Commission review which is due to report in August 1999 will include a detailed analysis of:

- The economic impacts of the gambling industries, including industry size, growth, employment, organisation and interrelationships with other industries such as tourism, leisure, other entertainment and retailing.
- The social impacts of the gambling industries, the incidence of gambling abuse, the cost and nature of welfare support services of government and non-government organisations necessary to address it, the re-distributional effects of gambling and the effects of gambling on community development and the provision of other services.

Rather than duplicate this extensive research, and given the very short timeframe for this review, the Tribunal will limit its discussions on the social and economic impacts of gaming to the available literature and material presented in submissions.

7.1 Beneficial impacts

Access to gaming products provides individuals with greater choice of how to spend their leisure time. Research in Victoria indicates that the main motivation for attending gaming venues is for the social experience. In the case of the casino, people were also motivated by the thrill or dream of winning and the atmosphere and buzz of the casino.¹⁶⁰

¹⁵⁷ A report on the findings of the hotline was produced by NCOSS and is available by telephoning NCOSS on (02) 9211 2599.

¹⁵⁸ NCOSS, *Community Views on Gambling, September 1998*, p 8.

¹⁵⁹ For further information on the Productivity Commission's gambling review contact Ross Wilson (02) 6240 3219 or visit the Productivity Commission's website www.pc.gov.au/inquiry/gambling

¹⁶⁰ Maddern, C. & Golledge, S. 1997, *Fourth Survey of Community Gambling Patterns*, Report prepared by Market Solutions for the Victorian Casino and Gaming Authority.

Economic benefits of gambling include employment opportunities, tourism, and government revenue. There appears to be a limited amount of research that has quantified the benefits of gambling.

Two reports brought to the attention of IPART attempt to examine the benefits of gambling. A recent report prepared for the CCBF Trustees¹⁶¹ estimates:

... that direct employment in the NSW gambling sector is estimated to lie between 16,500 and 18,000 FTE jobs. Once indirect flow-on effects are included, the total employment generated is estimated to be between 23,000 and 26,000 FTE jobs.

The other report was commissioned by the Registered Clubs Association, which engaged consultants to quantify clubs' contribution to the community. The RCA, in its submission to this inquiry indicated that the consultant estimated:¹⁶²

The value of community support, excluding capital investment, provided by the club industry during 1996-97 to be some \$155 million.

Duty from gaming enables the government to fund a broad range of social services. Submissions from the AHA report that the hotel sector pays substantially high rates of gaming machine duty than the club sector which more than offsets the community support given by the club industry.¹⁶³

Other submissions acknowledged the benefits of gaming. For example, NSW Treasury in their submission acknowledge that social costs are caused by gambling but states¹⁶⁴

...recognition should also be given to some of the social benefits generated by the gambling industry:

- Government revenue raised from gambling are used to fund a wide range of community services. The total revenue take from gambling and betting equates to about 20 percent of the health budget, or 21 percent of the education budget, or almost 100 percent of the police budget.
- Gaming is enjoyed by a wide cross section of the community. Most consumers of gaming products do not have a problem controlling their gambling behaviour. For these people gaming offers one of many alternatives ways in which to spend their leisure dollar.
- Clubs and hotels provide a range of community benefits. In regional areas, for example, they offer a community meeting point and a venue for many social occasions. Gambling helps to maintain the viability of these venues.

The Productivity Commission's Review of Gambling will provide more detail on the economic and other beneficial impacts of gambling.

7.2 Negative impacts

Negative impacts of gambling can be suffered by the gambler, family and friends, community and welfare groups and social services and public agencies.

¹⁶¹ A repeat of study No 2: *An examination of the socio-economic effects of gambling on individuals, families and the community, including research into the costs of problem gambling in NSW*, June 1998, p v.

¹⁶² Registered Clubs Association, Submission to the Gaming Inquiry, August 1998, p 12.

¹⁶³ AHA submissions to IPART, August 1998, p 28 and November 1998, pp 1-2.

¹⁶⁴ NSW Treasury, Submission to the gaming Inquiry, August 1998, p 10.

NCOSS suggests:¹⁶⁵

Gambling has social, economic and cultural impacts beyond individuals with a gambling problem. While a small proportion of adults are identified as problem gamblers, the costs to the rest of society are very high. Costs arise from, example, crime, break down in relationships, bankruptcy and financial and emotional stress.

The Family Support Services Association reports that the impacts of problem gambling can include family breakdown, homelessness, domestic violence, and inadequate food, clothing and parental care for children.

The Shoalhaven Parents and Partners of Problem Gamblers states that¹⁶⁶

The economic costs to the community are significant and must be counted in lost hours from work, sickness in family members, levels of financial debt, criminal activities, employer losses, costs to the community in unemployment & welfare benefits and the provision of support services. In addition, gaming venues tend to deplete local businesses of customers, encourage spending in one venue and undermine the social fabric of a community.

The emotional and psychological impact of problem gambling upon family members is often worse than the financial problems. The lack of trust, lack of coping ability in the gambler, and the cycle of gambling, all serve to place incredible stress upon the gambler and their family.

Again, there is limited comprehensive analysis on the negative impacts of gambling, nor has a detailed cost benefit analysis of the NSW gambling industry been adequately undertaken.

In the past few years several studies have attempted to estimate the number of problem gamblers in NSW. Estimates of the percentage of the adult population 'at risk' of problem gambling range from 0.4 to 3%. The research funded by the CCBF (the Repeat of the 1995 Study 2 on the socio-economic effects of gambling) concludes¹⁶⁷ that :

- There is a prevalence of 'at risk' regular gamblers of 1.3% of the adult population in NSW, ie a total of 64,100:
 - 0.45% of the adult population may be considered 'cases' of problem gambling, currently experiencing a wide range of severe gambling related problems in all domains of their life (ratio men:women, 3:1)
 - 0.85% of the adult population are considered to be at risk of gambling related problems with varying degrees of impact from severe to relatively mild (ratio men:women, 2:3)
- Total costs to the community in NSW are estimated to be approximately \$50 million per year

However, concerns have been expressed with this study:

- The estimates of 'at risk' were based on the South Oaks Gambling Screen test. Some academics and practitioners question the appropriateness of this measure.
- The narrow approach taken to estimating the costs and benefits to the community.

¹⁶⁵ NCOSS, Submission to the Gaming Inquiry, August 1998, p 5.

¹⁶⁶ The Shoalhaven Parents and Partners of Problem Gamblers, Submission to the Gaming Inquiry, September 1998, p 2.

¹⁶⁷ A repeat of study No 2: *An examination of the socio-economic effects of gambling on individuals, families and the community, including research into the costs of problem gambling in NSW*, June 1998, p vi.

Further, Professor McMillen writes:¹⁶⁸

Emerging research however, has begun to raise questions about the complex relationship between gambling and other social issues such as unemployment, depression, family tensions, alcoholism, etc. Gambling is often just one of a complexity of factors which create problems for some people – and the question of cause and effect requires more investigation. It may be that gambling is merely a symptom, even an escape, from more serious social or personal problems.

A recent report reviewing the impact of gambling in Victoria concludes:¹⁶⁹

While some social benefits have resulted, it appears on balance that a net adverse social impact has occurred.

Both NCOSS and the Smith Family are concerned that gaming is being disproportionately targeted at low socio-economic areas. The Smith Family believes that:¹⁷⁰

There is a need for wider recognition that those on a low income or suffering personal or family trauma may be a greater 'problem gambling' risk category than the rest of the community. This social aspect [should] be taken into all policy deliberations, especially in regard to location of gaming venues and associated community services.

The Retail Traders Association of NSW believe gaming is likely to have a negative impact on retailing by reducing the level of disposable income available for shopping. They conclude that:

Greater research is required to ascertain the overall social and economic costs of gaming in the NSW Community especially in relation to dis-savings and the long term impacts on the economy.¹⁷¹

Recommendation 7.1

Prior to any further expansion of gambling, IPART recommends that the IGLCA co-ordinate detailed research on the economic and social impacts of gambling.

7.3 Regional Impacts

Gaming has some regionally specific impacts which require explicit consideration by government. The Tribunal visited several gaming venues in the towns of Lismore and Dubbo to gain an understanding of the impacts of gaming in regional areas of NSW.

The existence of regional specific impacts was suggested by a 1998 study commissioned by the CCBF. It found that men and women in country NSW gamble more frequently and spend more than respondents in the city.¹⁷²

¹⁶⁸ Professor Jan McMillen, AIGR, Submission to the Gaming Inquiry, August 1998, p 19.

¹⁶⁹ Arthur Anderson, consultant to the Victorian Casino and Gaming Authority, *Summary of Findings 1996-97 research program*, December 1997, p 3.

¹⁷⁰ The Smith Family, Submission to the Gaming Inquiry, August 1998, p 2.

¹⁷¹ Retail Traders Association of NSW, submission to IPART, August 1998, p 6.

¹⁷² CCBF, *An examination of the socio-economic effects of gambling on individuals, families and the community, including research into the costs of problem gambling in NSW. The 1997 Study 2 Update*, June 1998, p vi.

IPART has observed that the level of accessibility of gaming machines in regional areas appears to be broadly similar to accessibility in metropolitan Sydney. For example, Dubbo, with an estimated population of 40,000, has over 400 gaming machines spread across 14 hotels and 4 registered clubs.

The Victorian Casino and Gaming Authority (VCGA) has completed several extensive research projects on the impact of gaming in rural and regional areas. IPART suggests that the ILGCA consider this research when examining appropriate gaming controls for regional areas. A key finding of note from one VCGA project was that the proportion of regular gaming machine players with moderate problem gambling characteristics was 1.5% in country NSW and 2.6% in metropolitan NSW.¹⁷³

The RCA reports that generally every town with a population of over 400 people has at least one registered club.¹⁷⁴ In many communities the registered club is often the focal point for most social activity. Anecdotally, clubs patronage frequency per head of population appears higher in regional areas. This greater frequency heightens the need to expedite the application of responsible gaming practices. However, many of the regional gaming venue operators stated that they were better placed to ensure responsible gambling as they knew their regular gaming patrons and had a good idea of their financial capacity.

In most registered clubs, the profits from gaming enable the provision of social, recreational, sporting and other facilities as well as funding for a variety of community projects which may not otherwise be provided.¹⁷⁵

Of concern to IPART were several submissions stating that problem gambling support services were far less accessible in regional areas.¹⁷⁶ The GLA needs to ensure adequate service coverage extends to regional and rural areas.

The NCOSS Gambling Hotline held in September 1998 sought community views on gambling received 36% of calls from regional and rural areas.¹⁷⁷ Of concern to IPART were several submissions stating that problem gambling support services were far less accessible in regional areas.¹⁷⁸

Overall, IPART considers that regional and rural towns require separate consideration when examining the economic and social impacts of gaming.

¹⁷³ Victorian Casino and Gaming Authority, *Definition and Incidence of Problem Gambling, Including the Socio-economic Distribution of Gamblers*, August 1997, p 61.

¹⁷⁴ RCA submission to IPART, August 1998, p 11.

¹⁷⁵ Betsafe submission to IPART, August 1998, p 2.

¹⁷⁶ See submissions including NCOSS August 1998, p 13.

¹⁷⁷ Report from the NCOSS Gambling Hotline, September 1998, p 2.

¹⁷⁸ See submissions including NCOSS August 1998, p 13.

Recommendation 7.2

The Tribunal recommends that the IGLCA co-ordinate detailed research on the economic and social impacts of gambling in regional areas.

8 RECOMMENDATIONS

Recommendation 2.1

The Tribunal recommends that Government investigate the adequacy of TAB's ringfencing of CMS activities from TAB's other gaming activities. Details of the results of this investigation should be available to gaming providers.

Recommendation 2.2

IPART recommends that the current Productivity Commission's Inquiry into Gambling Activities in Australia evaluate the draft model and consider whether further development is needed to implement a national policy on this issue.

Recommendation 4.1

Based on the information provided to this review, the Tribunal is of the view that the current regulatory arrangements require change.

Recommendation 4.2

The Tribunal recommends that there is need for some form of gaming commission to oversee gaming in NSW.

Recommendation 4.3

The Tribunal recommends that all gaming related control functions be carried out by an independent gaming commission, separate from enforcement.

Recommendation 4.4

The Tribunal recommends that casino enforcement be carried out by a unit of the agency responsible for all gaming industry enforcement.

Recommendation 4.5

The Tribunal recommends that the combined regulation of the gaming and liquor industries be retained.

Recommendation 4.6

The Tribunal recommends a gaming commission with legislative independence similar to that of the Casino Control Authority.

Recommendation 4.7

IPART supports a system of Ministerial direction for the proposed gaming commission similar to the CCA model.

Recommendation 4.8

The Tribunal recommends that the regulatory structure for the NSW gaming (and liquor) industry consists of 2 bodies:

- *a gaming commission to undertake the control functions of the gaming industry; and*
- *an enforcement and policy agency.*

Recommendation 4.9

IPART supports the immediate licensing by the ILGCA of all gaming managers and eventual licensing of all gaming related employees by say 2001.

Recommendation 4.10

Tribunal recommends that government consider making the head of the GLA a statutory appointment.

Recommendation 4.11

The Tribunal recommends that Government give further consideration to whether minor control functions that are predominantly administrative in nature, should be delegated by the ILGCA to the Gaming and Liquor Agency.

Recommendation 4.12

The Tribunal recommends that Government consider the merit of having a standing committee of parliament review on a periodic basis whether the regulatory arrangements for the gaming industry (both the IGLCA and GLA) are meeting the Government's regulatory objectives.

Recommendation 5.1

IPART strongly recommends that the Gaming and Liquor Agency immediately commence coordinating and prioritising research into gaming – why people gamble, why gambling becomes a problem for some people, prevention methods and other related topics. The Agency should include as an immediate priority the investigation of the effectiveness of the measures to promote responsible gaming and assess their strengths and limitations.

The Agency should provide a list of priorities to the CCBF who should develop a strategic research plan in consultation with the community and industry and then tender to have this research undertaken over the next three years. Funding for this research would continue to be provided by the Casino Community Benefit Fund.

The ILGCA should review the overall effectiveness of the research effort.

Recommendation 5.2

The Tribunal recommends that the Government evaluate which minimum components of a responsible gaming strategy should be mandatory and legislated and which components are best left to industry wide codes of conduct.

Recommendation 5.3

The Tribunal recommends that the new Gaming and Liquor Agency develop advertising standards to cover all gaming products. The standards should be developed in consultation with the community and should then be progressed as the basis for a national gambling advertising code.

Recommendation 5.4

The Tribunal recommends that the gaming industry improve the effective usage of signs, labelling and brochures. The Gaming and Liquor Agency should consider measures to encourage the provision of more useful consumer information to participants of gaming at the point of purchase.

Recommendation 5.5

The Tribunal recommends that the GLA review section 9A(5A) of the Registered Clubs Act and section 20(4A) of the Liquor Act to ensure that the provision of credit by gaming providers for the purposes of gambling is clearly and unambiguously prohibited.

Recommendation 5.6

The Tribunal recommends that the Gaming and Liquor Agency be the lead agency for enforcement of consumer protection. The Agency should be adequately resourced with the appropriately trained staff to ensure that consumer protection is enforced. The Gaming and Liquor Agency needs to ensure that the Complaints Unit is effective in protecting consumers and is adequately promoted and resourced.

Recommendation 5.7

The Tribunal recommends that industry codes of gaming conduct explicitly define:

- **limits on the provision of free alcohol to gamblers**
- **responsible practices for frequent player point schemes.**

Recommendation 5.8

The Tribunal recommends that industry gaming codes exclude the use of inducements such as 'shopper docketts and letter box flyers'.

Recommendation 5.9

The Tribunal strongly recommends that the Gaming and Liquor Agency immediately commence coordinating research into gaming. The Agency should develop a strategic plan in consultation with the community and industry and then tender to have this research undertaken over the next 3 years.

Recommendation 5.10

IPART recommends that all employees be prohibited from gaming within their employers' premises. Venues in towns of less than, say 1000 people could be exempted from this prohibition.

Recommendation 5.11

The Tribunal recommends that an information course for family members be developed featuring strategies on understanding the problem, how to protect assets and how to reduce the access to funds.

Recommendation 5.12

IPART supports codes of gaming conduct requiring that ATMs be positioned in a room away from the gaming floor.

Recommendation 5.13

IPART supports greater research on the relationship between gaming venue design and the level of problem gambling. Research should specify design features which foster a more responsible gaming environment. The desirable features could then be included in gaming codes of conduct with venues given a transitional period to meet the code standards.

Recommendation 5.14

IPART recommends that the new Gaming and Liquor Agency should place greater emphasis on obtaining community input into the development of gaming related policies. One way of achieving this, is to establish a community consultation committee.

Recommendation 6.1

IPART recommends that responsibility for co-ordination of problem gambling research is allocated to the new Gaming and Liquor Agency.

Recommendation 6.2

The Tribunal recommends that:

- **the current Casino Community Benefit Fund provide funding only for support services for gaming related problem, responsible gaming practices and general research into gaming**
- **the benefit fund maintain its current level of funding until December 2000, when the appropriate level of funding and contributors is to be reconsidered**
- **the Gaming and Liquor Agency, in consultation with the ILGCA, formulate a set of priorities for problem gambling related research**
- **the Gaming and Liquor Agency both supply appropriate expertise to professionally administer the fund and coordinate gaming related support services and undertake research in close consultation with NSW Health and DOCS**
- **the Minister continue to approve the granting of monies from the fund based on the recommendations of a board of trustees.**

Recommendation 6.3

The Tribunal further recommends that as a priority the Gaming and Liquor Agency establish and then maintain a register of relevant gambling support services, organised on a regional basis.

Recommendation 6.4

The Tribunal recommends that Government consult with the club industry about ways to achieve a transition to a larger scale community fund. A review of the CDSE system should be held in conjunction with the review of the CCBF in December 2000. At a minimum this review should establish co-ordination of the CDSE funds and the CCBF.

Recommendation 7.1

Prior to any further expansion of gambling, IPART recommends that the IGLCA co-ordinate detailed research on the economic and social impacts of gambling.

Recommendation 7.2

The Tribunal recommends that the IGLCA co-ordinate detailed research on the economic and social impacts of gambling in regional areas.

ATTACHMENT 1 TERMS OF REFERENCE

The Inquiry is to provide general comment on the social impact of gaming in New South Wales. In particular, the Inquiry is to investigate:

- a) the need for and form of a gaming commission or similar authority to oversight gaming in New South Wales;
- b) the relationship that should exist between the Casino Control Authority (and other existing licensing or regulatory bodies) and any such gaming commission or similar authority;
- c) measures (both existing and potential) to foster a responsible gaming environment;
- d) the co-ordination of the problem gaming policies of hotels, registered clubs, the casino and other providers of gaming; and
- e) the co-ordination of problem gambling support services and research centres to address problem gaming.

The Inquiry is to utilise existing studies, including any inquiry into gaming undertaken on behalf of the Commonwealth, and any submissions made on behalf of New South Wales to such a Commonwealth inquiry. Further, the Inquiry is to consider submissions made to it by all interested organisations.

For the purposes of the Inquiry, “gaming” is to be taken as including: machine gaming, casino gaming, operations of NSW Lotteries Corporation and Club Keno.

The Inquiry is to report to Parliament by 26 November, 1998.

ATTACHMENT 2 PEOPLE AND ORGANISATIONS CONSULTED

As part of the consultation process for this inquiry, meetings were held with a number of organisations and individuals who have an interest in the gaming industry. Representatives of some of these organisations also provided presentations at public hearings held as part of the inquiry. The input provided at these meetings and public hearings was of significant value, and IPART is grateful for the high level of co-operation and participation from all those involved.

Organisations and individuals who participated in meetings during the review

Audit Office
Australian Hotels Association
Australian Institute for Gambling Research, University of Western Sydney
BetSafe Group of Clubs
Mr Alex Blaszczyński
Canterbury-Bankstown Leagues Club
Casino Community Benefit Fund Trustees
Casino Control Authority
Rev. Tim Costello
Council of Social Service of NSW
Department of Gaming and Racing
Department of Health
Director of Casino Surveillance
Dubbo City Bowling Club
Dubbo Golf Club Ltd
Dubbo Railway Bowling Club
Dubbo RSL Memorial Club
Liquor Administration Board
Lismore & District Workers' Club Ltd
Lismore Golf Club Ltd
Lismore RSL Club Ltd
Minister for Gaming and Racing
Ms Marea Donnelly
NSW Audit Office
NSW Lotteries
NSW Treasury
Penrith Panthers
Public Interest Advocacy Centre
Queensland Gaming Machine Community Benefit Fund
Queensland Office of Gaming Regulation
Registered Clubs Association
Shadow Minister for Gaming and Racing
Star City Casino
Victorian Casino and Gaming Authority
Victorian Liquor Commission
Wesley Gambling Counselling Service

Presenters at public hearings

7 September, 1998

Star City Casino

Mr Peter Grimshaw, Media and
Government Relations Director

Gamblers' Help Line

Mr Jim Hickson, Hon. Secretary

Uniting Church

Rev. Harry Herbert

NSW Council on Problem Gambling

Mr Laurie Bowe, President

Wentworthville Leagues Club

Mr Tony Toohey, General Manager and
Betsafe Representative

9 September, 1998

Wesley Gambling Counselling Service

Mr Jim Connelly, Manager

Australian Institute for Gambling
Research

Prof. Jan McMillen

Australian Gaming Machine
Manufacturers' Assoc.

Mr Keiran Daley, Executive Officer

University of Western Sydney

Prof. Mark Dickerson

Registered Clubs Association

Mr Keith Kerr, Executive Director

Australian Hotels' Association

Mr David Charles, Chief Executive

Council of Social Services of NSW

Ms Imelda Dodds, Vice President
Ms Ruth Ragless, Policy Officer

ATTACHMENT 3 LIST OF SUBMISSIONS

Organisation	Name
	J. Bisiker
	K. Clarke
	R. Cluff
	S. Davey
	M. Donnelly
	D. Doust
	K. Finnerty
	L. Greig
	N. Hooper
	M. Martin
	K. Roberts
	V. Scott
	V. Smith
	E. Webber
	S. Miller
Anglican Church Diocese of Sydney	G. Snowden
Aristocrat Leisure Industries Pty Ltd	P. Hanna
Atheist Association of NSW Inc.	C. Hamilton
Australia Institute	
Australian Gaming Machine Manufacturers' Association	K. Daley
Australian Hotels Association (NSW)	D. Charles
Australian Institute for Gambling Research	J. McMillen
Australian Medical Association (NSW) Ltd	R. Napier
AWA Limited	R. Hines
Bellamy Miller & Monypenny Pty Ltd	W. Monypenny
Betsafe Group of Clubs	P. Symond
Bittini Pty Ltd	G. Stanford
Christian Democratic Party	F. Nile
Club Managers' Association of Australia and Leagues' Clubs Association of NSW	J. Henry, D. Costello
Corrections Health Service	D. Picone
Council of Social Services of NSW	G. Moore
Department of Fair Trading	D. O'Connor
Doig Pty Ltd	C. Clough
Family Support Services Association of NSW Inc.	C. Menzies
Gam-Anon Service Centre Australia	
Gamblers Help Line	J. Hickson
I.G.T. (Australia) Pty Limited	P. Osborne
Inner Sydney Regional Council for Social Development Co-op Ltd	M. Barry
Liquor Administration Board	
Liquor Store Association of NSW	W. Bovis
Liverpool City Council	C. Harrington
Local Community Services Association Inc.	R. Bishop
Local Government & Shires Associations	M. Kidnie
LW Williams & Associates	
NSW Casino Control Authority	C. Cullen

NSW Council on Problem Gambling	P. Symond
NSW Department for Women	R. Henderson
NSW Department of Community Services	C. Niland
NSW Department of Gaming and Racing	K. Brown
NSW Health Department	M. Reid
NSW Lotteries	M. Howell
NSW Police Service	J. Jarratt
NSW Treasury	J. Pierce
Public Interest Advocacy Centre	M. Abrahams
Rationalist Association of NSW Inc.	P. Hanna
Registered Clubs Association of NSW	K. Kerr
Retail Traders Association of NSW	B. Healey
Shoalhaven Parents & Partners of Problem Gamblers	
The Smith Family	S. Keil
St Vincent de Paul GAME Gambling Counselling Service	D. Borham, E. Fera
Star City Casino	N. Gamble
Tourism NSW	T. Thirlwell
Uniting Church in Australia NSW Synod	H. Herbert
University of Technology, Sydney	R. Lynch
University of Western Sydney, Macarthur	M. Dickerson
Wesley Gambling Counselling Service	J. Connelly
Women and Gambling Project (a project of the Northern Suburbs Community Development Inc. Bulli Resource Centre)	S. Brittain

ATTACHMENT 4 SUMMARY OF SUBMISSIONS

The Tribunal received over 60 submissions to this inquiry. All submissions have been considered by the Tribunal in the writing of this report.

Following is an outline of some of the main points raised in submissions.

The need for and form of a gaming commission or similar authority to oversight gaming in New South Wales

Of the submissions to the inquiry which address this issue, the majority indicate support for the establishment of some form of gaming commission.

There were a number of general comments about the structure for a commission:

- Gaming control needs to be separated from revenue raising, administration, routine regulation and surveillance (the Australian Institute for Gambling Research (AIGR)).
- There is a need for the regulation of gaming to be separated from the executive arm of government to ensure the integrity of regulation and that it is free from political interference (the Betsafe Group of Clubs (Betsafe)).
- There are problems in being both the regulator and promoter of gambling (Inner Sydney Regional Council for Social Development Co-op Ltd, Public Interest Advocacy Centre (PIAC)).
- A commission should be at arm's length from the NSW Parliament, while at the same time having a reporting requirement to Parliament. A commission should be removed from gambling industry influence and funding (University of Technology, Sydney (UTS)).
- A commission should not have statutory independence – elected politicians are likely to be sensitive to changing public values (Australian Gaming Machine Manufacturers' Association Ltd (AGMMA)).
- A commission should deal with licensing, administration and enforcement. Policy should be the responsibility of a government Minister. The Police Service should deal primarily with the investigation of gaming related criminal offences (Aristocrat Leisure Industries Pty Ltd).

A number of submissions put forward proposals in relation to the roles and functions of a commission:

- Control and licensing of gambling operations (Council of Social Service of NSW (NCOSS), Local Community Services Assoc.).
- Administration of responsible service of gaming provisions (Betsafe).
- Consumer protection (AIGR, Anglican Church Diocese of Sydney, PIAC, Uniting Church).
- Development and enforcement of a mandatory code of conduct (NCOSS, PIAC).
- A complaints review procedure (NCOSS, PIAC) (AIGR proposes an ombudsman for complaint resolution) (LW Williams & Assoc. propose a Tribunal to hear and determine grievances of members of gambling provider venues).

- Provision for representation of consumers and financial counsellors (Department of Fair Trading).
- Policy development and advice (Betsafe, UTS).
- Assessment of impacts on the community of any applications to expand gambling activities (NCOSS, Uniting Church). Star City Casino submits that the operator's record in developing responsible gambling programs also be considered.
- Manage community benefit funds (NCOSS, Local Community Services Assoc.).
- Research the social and economic impacts of gambling (Local Community Services Assoc., NCOSS, UTS). AIGR proposes that a commission's role be to develop and oversee strategic plans for research needs, call for tenders for specific projects, and publish research findings.
- Provision of problem gambling services (Anglican Diocese).
- Education on the negative effects of gambling (PIAC).
- Monitoring and control of advertising (Local Community Services Assoc.).
- Staff training programs (PIAC).

The Australian Hotels Association (AHA) would prefer that all gambling continue under the control of a government department, with a government ministry to develop policy and provide advice to government.

The Liquor Administration Board (LAB) feels that the abolition of present regulators and their replacement by a commission is not warranted. LAB suggests that a new committee be set up under the control of the Minister to address problem gaming.

Extent of regulation of the industry

Star City comments that registered clubs are allowed to install an unlimited number of poker machines with minimal government approval processes and without the same degree of regulation imposed on Star City. While there is a need for separate regulation of table games, there is no reason why poker machines in Star City should be subject to different laws and testing regimes from those in clubs or hotels.

Aristocrat proposes that recognition be given to the extensive self-regulatory practices currently in place. A commission should be responsible for setting appropriate regulatory benchmarks. It should set licensing requirements for all industry participants, targeted through appropriate risk management standards.

The LAB notes that from January 2001 it is proposed that all gaming machines in clubs and hotels be centrally monitored by the TAB. This will reduce the requirement for physical inspections of licensed premises.

The relationship that should exist between the Casino Control Authority (and other existing licensing or regulatory bodies) and any such gaming commission or similar authority

The views of Gamblers Help Line, Aristocrat, AWA and the NSW Council for Problem Gambling (NSWCPG) are that the CCA might be absorbed into a commission. Star City suggests that the CCA and DCS would fit well with the work of a commission.

BetSafe proposes that a commission's functions would include the approval of gaming machines and other gaming matters currently dealt with by the LAB. Surveillance and inspections could be undertaken by a body separate to the commission. The CCA should form part of a gaming commission.

The Club Managers' Association and Leagues' Clubs Association suggest that the CCA and other bodies involved in investigation and compliance could operate under the regulatory control of a commission.

Wesley Gambling Counselling Services submits that the CCA should be attached to a commission to allow a high degree of co-operation between the 2 bodies. Licensing should cover staff providing alcohol and gaming, because of the close relationship between these areas.

AHA submits that if a gaming commission is set up, it should include the CCA, but the Licensing Court and LAB should remain separate. (Note however that AHAs preferred option is for all gambling to continue under the control of a government department.)

NSW Lotteries submits that if a commission is created, it would need to continue to recognise the special nature of a casino's operations, and ensure that the current high degree of regulatory oversight is maintained.

The CCA has a strong view that there continue to be strict independent regulatory control over the casino.

The Liquor Stores Association of NSW would vigorously oppose any proposal to abolish the Licensing Court.

The Anglican Diocese of Sydney believes that the CCA should continue to function as a special regulator of the casino, as the casino is subject to a higher level of community concern.

Measures (both existing and potential) to foster a responsible gaming environment

Star City has developed a responsible gaming strategy which includes education, a self-exclusion program, and brochures in several languages which outline the symptoms of problem gambling and how to get help. A counsellor is on call for emergencies.

Betsafe is currently developing and implementing a responsible gaming program, with some uniform measures and other measures which can be modified to reflect the circumstances of the individual club.

AHA has developed a number of plans to address problem gambling, and is seeking a whole of industry approach with involvement from government. To date, AHA has produced a 'Players Guide', which provides information on how to use gaming machines, and also suggestions for identifying problem gambling and information on how to access help services. AHA is currently developing a broader patron care package.

The Registered Clubs Association (RCA) has commissioned AIGR to develop a harm minimisation policy for registered clubs.

Club Gaming Systems Pty Ltd and Club Keno Holdings Pty Ltd are developing a harm minimisation policy and action plan for Club Keno which will complement the RCA initiatives. The Club Keno Hotline contacts Club operators when abnormal betting is identified on the system – this includes following up large betting patterns that are out of character with the history of a venue.

Codes of conduct

NCOSS supports the development of a mandatory whole of industry code of conduct to safeguard consumers and the industry. Enforceable sanctions are necessary to ensure adoption of a code.

The AHA is currently reviewing the NSW Hotels' Gaming Code of Practice. The Code addressed issues such as the prohibition of credit to patrons, and the provision of information on problem gambling support agencies.

The Australian lotteries industry has developed the Australian Lotteries Industry Code of Practice. The Code provides guidelines for the responsible sale and promotion of products, the referral of customers to community agencies where lottery gambling becomes a problem, and a requirement that advertising not give a false impression of the chances of winning a prize.

AWA supports a code of conduct to cover gaming advertising, promotion and venue presentation. The code could be regulated by a gaming commission.

Accreditation/enforcement/rating of responsible gambling providers

The AHA is developing plans for an accreditation system for hotels which implement responsible gaming practices. The accreditation system would involve initiatives including training for employees and self-exclusion programs.

Betsafe does not believe that legislative controls alone can achieve an appropriate and enforceable standard of service for responsible gambling. A combination of both legislative and industry measures would be preferable. Betsafe proposes the introduction of a rating system – individual clubs would be awarded a rating in terms of the extent to which measures and strategies had been adopted.

Labelling and signage

Wesley Gambling Counselling Service supports the use of warning notices at gambling venues. It is important to convey a commitment to do something about problem gambling to staff, patrons and the community.

Gamblers Help Line suggests that a slogan should be initiated to educate gambling patrons. Whatever the slogan is, it should be used by all gaming providers and in all advertising.

Star City uses the slogan 'Bet with Your Head, Not Over It' on posters in the casino, and on advertising and promotional material. (The Women and Gambling Project suggests that this slogan could be improved to make it more meaningful for people whose first language is not English.)

Club Keno has introduced the message, 'Your best bet is the one you can afford' on tickets and support materials for the most recent two new game variations.

AHA is developing a hotel gaming signage program to include information on problem gambling assistance.

Exclusion and self-exclusion

Wesley Gambling Counselling Services contends that this issue needs to be examined by a commission and a policy developed to be applied across all gaming venues. Where venues are linked by a central monitoring system, the self-exclusion mechanism should apply across the region. The Smith Family proposes that procedures for banning clients, including self-banning, be made universal to all gaming venues. Enforcement systems need to be investigated and implemented.

AHA is developing a self-barring/exclusion program. It is intended that counsellors will be involved in development of the program, and that it could be used in all sectors of the industry.

Star City has a self-exclusion program. Self-exclusion orders must be for a minimum of six months, and breaches incur a fine of \$2,200.

The co-ordination of the problem gaming policies of hotels, registered clubs, the casino and other providers of gaming

AIGR proposes that existing responsible gaming programs, such as the Casino and RCA programs, be co-ordinated and funded by a body other than DGR. Options include the Department of Health, Department of Community Services, or an interdepartmental committee.

Wesley Gambling Counselling Service believes it is not appropriate for consumer protection to be the responsibility of the DGR – DGR is not perceived to be independent, its focus is on revenue raising, and there is a conflict of interest. There need to be minimum consumer protection standards across the industry, which are set and regulated by a gaming commission.

Star City advises that while there has been some consultation with the RCA and AHA, there has been little formal co-ordination of responsible gaming initiatives. While it would be unrealistic to require all gaming outlets to offer the same responsible gaming programs, increased co-ordination must be of benefit in providing assistance to problem gamblers.

RCA submits that, based on the experience gained from the implementation of the responsible service of alcohol campaign, the effectiveness of problem gambling strategies can be optimised only if a set core of strategies is adopted by all gambling providers.

NSW Lotteries suggests that the diversity of the gaming industry necessitates a strategy of co-ordination, rather than a uniform approach to regulation. In-house gaming support services such as those provided by Star City Casino could be extended to clubs and hotels, but are inappropriate for a lottery agency.

The co-ordination of problem gaming support services and research centres to address problem gaming

The Women and Gambling project reports that currently there are few links between service providers. As a consequence, there is little awareness of the services provided by different organisations. There is no formal network for information exchange, co-ordination of service provision, or identification of gaps in service delivery.

Star City, NCOSS and the Anglican Church submit that a gaming commission would be an appropriate body to co-ordinate support services.

AIGR submits that NSW gamblers would be best served by a statewide network based on existing community agencies, rather than specific gambling support centres.

Type of treatment service

The NSW Department of Health expresses concern about the lack of consensus on appropriate treatments for problem gambling. AIGR reports that there has been no formal state-wide analysis of the availability or efficacy of service delivery in NSW.

Shoalhaven Parents and Partners of Problem Gamblers suggests that support services need to include financial counselling, personal counselling and other strategies. Gamblers Help Line points to the need for access to residential programs for problem gamblers.

The Local Community Services Association submits that problem gambling services should include self-help groups, professional counselling, and support and therapy groups. Family Support Services provides counselling for families. It is trialing mutual support groups for families of gamblers. These would address areas such as dealing with relapses and parenting issues.

Access to support services

The Family Support Services Association advises that some funding mechanisms restrict the number of counselling sessions per client, and that a maximum of, for example, six sessions is likely to be insufficient to 'cure' a problem gambler. There must be adequate local support services for the spouses and children of gamblers.

A submission from a non-metropolitan area advises that it can take months to get an appointment at a free support service agency, if there are any agencies available in the area at all. The gambler needs regular (at least weekly and possibly more often) support and counselling, and may require support for years.

Wesley Gambling Counselling Service notes that there are insufficient gambling treatment services to meet demand. Secure funding is difficult to get. There is a lack of sufficient access information for non-English speaking background (NESB) clients.

The Smith Family calls for problem gaming support services to be provided in proportion to the number of machines/venues in any local government area. The Smith Family also comments on:

- the lack of appropriate services for specific cultural and NESB groups
- self-help groups who meet at night and/or in venues where women may be concerned for their safety
- community welfare centres not having information on how to access problem gambling support services

- specialist gambling services may be ineffective and/or unsuitable.

Star City reports that the main gap in services remains the lack of counselling and assistance for NESB patrons. The shortage of multi-lingual counsellors is a major problem area.

AIGR submits that there is an urgent need for support agencies in non-metropolitan areas. There is also a need for culturally-specific services provided by the ethnic and Aboriginal communities' own agencies. Gam-Anon advises that there is a great need for support services in rural areas. Gam-Anon struggles to meet the needs of problem gamblers, their families and their friends who are house-bound, elderly or have small children. NCOSS recommends more funding for individual counselling, and for specialised services in regional areas. A submission from an individual advises that there are no gambling-specific services available in the Shoalhaven or South Coast region - the nearest services are at Wollongong. People living south of Nowra have even less access to services.

Star City believes that G-Line is currently the best referral service available, although there are concerns about gaps in the service for people from non-English speaking backgrounds. Prof. Mark Dickerson refers to an evaluation of the G-Line telephone counselling service which stated that the role of G-Line in overall service provision had not been properly considered. Gamblers Help Line submits that G-Line's performance as a counselling and referral service is unsatisfactory.

Priority areas of research

AIGR discusses the need for research into problem gambling within ethnic and Aboriginal communities, and for more co-ordination between researchers, service agencies, industry and government.

Wesley Gambling Counselling Service suggests that there have been too many small scale research projects, and proposes a smaller number of significant projects to provide data on:

- the cost of problem gambling to the community, covering health, justice, employment, welfare and community services
- the effect of problem gambling on families
- a long-term study of changes in the gambling industry and associated changes in the effects on problem gambling.

The Australian Medical Association (NSW) Ltd (AMA) submits that research into the most effective methods of treatment is a priority.

Database of service providers

AIGR submits that an updated register of relevant community agencies, organised on a regional basis, be compiled and maintained.

AMA has compiled a list of providers, however they have not been able to ensure that that list is comprehensive, or provide any advice as to the competency of the agencies.

Other issues

Access to gaming

The Christian Democratic Party calls for an urgent reduction of gambling in NSW, and an immediate moratorium on any further expansion of gambling. NCOSS and the Shoalhaven Parents and Partners of Problem Gamblers propose a moratorium on the introduction of further poker machines. The Inner Sydney Regional Council for Social Development also proposes an immediate cap on expansion of the industry, and a phasing down program for poker machines.

The Family Support Services Association submits that it has been aware of increased problems since the introduction of poker machines into hotels. It is considered that easier access to poker machines has led to more people gambling more often. The Association suggests that hotels could limit the amount of time spent on machines by regular patrons who are known to be problem gamblers, and that controls be placed on gaming machines to restrict the amount of money that can be put through a machine in a set time period.

Legislative amendments

Betsafe and Aristocrat propose that all gaming machines in NSW be regulated by stand-alone legislation, such as a Gaming Machine Control Act.

Industry advisory groups

There are a number of specific interest groups and committees providing advice on regulatory and policy developments for the industry. There is also a club industry advisory council. AGMMA submits that the club industry advisory council be abolished, and replaced with a body which is more representative of the industry as a whole.

The Uniting Church proposes that a Gambling Council be established, to be funded by a whole of industry levy. The Council would provide a vehicle for community involvement in reporting to Parliament on the gaming industry, and its duties would include responsibility for research, education, counselling and treatment, and the establishment of patron care standards to be enforced by a commission. The Council would subsume the CCBF, and have a much wider role.

Community benefit fund

NCOSS proposes that the Fund be managed by a commission, with funding decisions made by an independent board - supported by a dedicated and experienced community funding unit within the commission. (The model of the WA Lotteries Commission could be adapted for NSW.)

AHA suggests that the fund be overseen by a board representing providers such as the Wesley Mission, Salvation Army and St Vincent de Paul. The board should be established with the assistance of DOCS.

DOCS submits that there is no need to create a separate bureaucracy to manage the community fund. DOCS existing infrastructure manages the Government's funding arrangements with approximately 1,700 community organisations. This relationship involves community planning at a local level, as well as performance and financial

accountability, and these processes work effectively in both metropolitan and rural locations. DOCS proposes managing the community benefit funds on behalf of government, with or without advice from other 'human services' Directors-General.

Prof. Mark Dickerson suggests that either DOCS or the Department of Health should develop a strategic plan for, and subsequently manage, services for problem gamblers and their families, applying for funding from the CCBF every three years (as in Victoria).

Wesley Gambling Counselling Services proposes that the administration of the fund be transferred to the NSW Health. It is essential to have an expert panel to advise on all funding.

AIGR submits that the CCBF has not developed a co-ordinated research strategy which identifies priority areas to be researched. The NSWCPG reports that the Trustees do not have sufficient resources to adequately process applications for funding.

CCBF income

AWA proposes a levy across all parties who derive revenue from gaming. AHA proposes an industry wide levy of ½%. Star City suggests a 1% levy applied across all gaming outlets. The Uniting Church proposes 2%. NCOSS supports 2%, or a sliding scale of contributions, increasing in line with profit levels.

AGMMA submits that all gambling operators and Government should contribute to the Fund.

AIGR also supports a 'whole of industry' levy. AIGR points out that funds should not be subject to Ministerial or departmental control. The potential for funding to be withheld from agencies critical of government must be avoided.

NSW Lotteries asserts that proposals to extend the current 2% levy are too simplistic – they fail to recognise the widely different tax rates which currently apply to different forms of gambling.

CCBF general purpose grants

AHA proposes that funds be used exclusively to address the issue of the social impacts of gaming.

AGGMA and the Uniting Church submit that the Fund should continue to assist both problem gambling and general community projects.

Family Support Services proposes that the level of demand for counselling and other support services for problem gamblers and their families be monitored, and services be funded in accordance with demand levels.

Financial institutions and arrangements

Wesley Gambling Counselling Services contends that the use of ATMs, particularly to gain credit, requires regulation and enforcement. Some card holders have the capacity to withdraw up to \$5,000 per day.

The Smith Family proposes that no account over-draft facilities be available through ATMs at gaming venues, and that there should be provision for making account deposits at ATMs.

PIAC refers to S9A(5A) of the Registered Clubs Act, which prohibits cash advances on club premises. PIAC claims there are systematic breaches of this provision, but DGR appears to have no complaint handling procedures to deal with it.

The Women and Gambling Project and Shoalhaven Parents and Partners of Problem Gamblers recommends restrictions on the cashing of cheques. An individual residing in Sydney advises that although the ANZ Bank was fully aware that he had a gambling problem, he still had a credit card re-issued to him.

Promotion and inducements/incentives

The Smith Family expresses concern about a number of promotional activities, including shopping docket which offer poker machine credits, letter boxing of flyers offering the same inducements, and 'Pension Day' promotions in gaming venues, such as meat raffles.

The Wesley Gambling Counselling Service reports that currently, nothing is done to control the link between drinking and gambling. It gives an example of a club's providing free alcohol to a patron with a gambling problem. There needs to be an advertising code, and balanced advertising which does not emphasise winning. Star City's packages of transport, free or subsidised meals, and free gambling chips are a concern. St Vincent de Paul Gambling Counselling Service comments that the claim of a hotel franchise that 'Every Body is a Winner' is a strong and inaccurate message.

NCOSS recommends that research be undertaken to identify the extent and impact of inducements used by the industry. Operators should be required to advertise the true odds of winning.

UTS proposes restrictions on advertising, and the Anglican Diocese calls for a complete ban on the advertising of gambling.

Education

Wesley Gambling Counselling Services proposes a co-ordinated public awareness campaign, involving government and all sections of the industry. Appropriate models are the NSW Health campaign on smoking, and the alcohol harm minimisation campaign. Universities and colleges need to provide information about problem gambling support agencies.

The Smith Family asserts that there must be measures to counter the dangers of addiction. This should include broader community recognition of the problem and education to counter it. Submissions from individuals propose an emphasis on prevention and awareness programs for problem gambling, and education for school children on the potentially addictive nature of gambling.

NCOSS advocates that community education be undertaken, and says there is a need to provide material in school curricula. A commission could regulate consumer health warnings on gambling.

NSWCPG proposes that the government sponsor a long term campaign to provide community education and consumer information.

UTS proposes appropriate training and education of staff in gambling venues, and also comments that the education of patrons could be improved.

The parents of a problem gambler advise that they originally thought problem gambling was simply a lack of willpower, not an addictive illness. They suggest that there is a lot of public ignorance about the addictive nature of problem gambling. Shoalhaven Parents and Partners of Problem Gamblers also submit that the community in general does not understand the problem and often does not acknowledge it as an addiction.

Internet gaming

Star City advises that the issue of Internet gambling needs to be addressed urgently. It proposes that Internet gaming be regulated by the State Government, and would be best done through an approved operator. Patrons would then be given the protection of betting through an approved operator.

Shoalhaven Parents and Partners of Problem Gamblers advise that Internet gambling should be banned – it is uncontrollable and too easily accessible. Submissions from problem gamblers and their relatives point out that access to Internet gambling would make it even more difficult for problem gamblers to avoid the means to gamble.

Employees of provider venues

The hotel industry proposes that managers, shift supervisors, and all employees who work in a separate gaming room be licensed.

Wesley Gambling Counselling Service submits that it is essential that all staff employed in gambling venues be licensed. Currently, an employee dismissed for dishonesty can immediately obtain employment at another gambling venue.

Family protection

A submission from an individual advises that most counselling services do not provide adequate advice to family members of a problem gambler on how to protect assets. Family members should be empowered to take some action to protect family assets, perhaps through a Magistrate garnisheeing a portion of the individual's income to pay rent or other similar expenses.

Another submission from a family member of a problem gambler also proposes changes in legislation for family protection. At present all a spouse can do is leave the relationship, which is not always desirable. Problem gambling needs to be recognised as a mental illness to allow power of attorney or garnisheeing of wages to be exercised.

Social impacts

NSW Treasury suggests that while social costs are caused by gambling activity, recognition should also be given to the social benefits generated by the industry. While NSW is less dependent on gambling revenues than most other states, for 1997/98, NSW revenues from gambling and betting exceeded \$1.3b. Gambling taxes are a stable and growing source of revenue, and there is a strong correlation between gambling revenue and population

growth, economic growth and household incomes. Gambling revenue funds a wide range of community services. It should also be noted that clubs and hotels provide a range of community benefits. In regional areas, they provide venues for many social occasions, and gambling helps maintain the viability of these venues. Betsafe comments that clubs are the major provider of social, recreational, sporting and other facilities in NSW and are the focal point of many communities.

Tourism NSW comments that tourism has benefited indirectly from gaming in the Casino and registered clubs, and that the economic impacts of increased tourism may result in some positive social impacts due to increased employment.

The Club Managers Association and the Leagues Clubs' Association advise that registered clubs in NSW directly employ 60,000 managers and staff. Clubs also generate employment among suppliers and ancillary service providers, such as entertainers. Many small businesses such as newsagencies derive income from commissions on the sale of gaming products. The gaming industry generates employment in all areas of the state.

The Local Government and Shires Associations (LGSA) comments that there are many instances where clubs have worked closely with local councils and other political representatives to obtain benefits for the community. Projects include aquatic complexes and sporting fields. However, the LGSA also expresses concern about the growing trend amongst clubs and hotels to operate on a 24 hour basis, which can result in impacts on communities including noise, crime and violence.

The Family Support Services Association reports that the impacts of problem gambling can include family breakdown, homelessness, domestic violence, and inadequate food, clothing and parental care for children. Shoalhaven Parents and Partners of Problem Gamblers advise that there is a high suicide rate amongst problem gamblers. The Inner Sydney Regional Council for Social Development refers to increased dependence on welfare support, and impacts on health, including drug and alcohol abuse and depression. There has been a noticeable decline in the work available for musicians, as poker machines replace performance areas in hotels.

NCOSS suggests that there may be a detrimental impact on local retail shops in some low income areas. Anecdotal evidence indicates that the profitability of local retailers has decreased in areas such as Redfern and Waterloo. The Retail Traders Association submits that the Casino and extended gaming opportunities in clubs and hotels are likely to reduce disposable incomes and have a negative effect on retailing.

The NSW Department of Health points to legal, personal and employment impacts. A small business reported the costs sustained as a result of an employee's gambling problem. Costs included monies owed to the company, and pawn broker fees for the return of company equipment.

The Christian Democratic Party advises of a steady increase in the number of gambling related suicides in Victoria since the introduction of the casino, and submits that a significant proportion of problem gamblers commit crimes to support their habit.

ATTACHMENT 5 THE TRADE PRACTICES ACT

The Trade Practices Act (TPA) provides consumers with basic protection which has the potential to be utilised if a person was unfairly exploited in participating in gaming. Hence, the TPA is a sanction to ensure the responsible conduct of gaming. Section 51AB of the TPA (1974) prohibits corporations from unconscionable conduct in transactions with consumers. The term unconscionable conduct has come to refer to circumstances which have the following elements:

- one party to a transaction suffered from a special disability or disadvantage, in dealing with the other party
- the disability was sufficiently evident to the stronger party
- the stronger party took unfair or unconscionable advantage of its superior position or bargaining power to obtain a beneficial bargain.

In such a transaction the stronger party may not take advantage of its position by behaving in an unfair or unreasonable manner.

Although the TPA does not define 'unconscionable conduct', S.51AB does include a non-exhaustive list of factors which may be taken into account by the Court. These are:

- relative bargaining strengths of the parties
- whether the consumer understood any documentation used
- the existence of undue influence or pressure, or unfair tactics
- the imposition of conditions not reasonably necessary to protect the supplier's legitimate interests
- how much the consumer would have had to pay, and under what circumstances, to buy equivalent goods or services from another supplier.

Examples of conduct which might be found unconscionable are:

- high pressure sales techniques
- harassment
- use of standard form contracts which leave no room for negotiation
- taking advantage of people who, due to limited command of English or for some other reason, did not understand the documents involved.

Remedies for Unconscionable conduct

Individuals and the ACCC can bring civil actions in the Federal Court for unconscionable conduct seeking monetary compensation, rescission or variation of a contract, refund, or specific performance of a contract. Damages under s. 82 are not available as a remedy for unconscionable conduct, but other equivalent orders can be made by the Court under s.87(2)(d)). Actions under ss 51AA and 51AB can also be brought in State or Territory Courts of competent jurisdiction, and the extent of remedies available depends on the particular Court's jurisdiction.¹⁷⁹

¹⁷⁹ ACCC, Summaries of the Trade Practices Act 1974 and Prices Surveillance Act 1983, November 1995.