



ACT
Government



GAMBLING
AND
RACING
COMMISSION

ACT GAMBLING AND RACING COMMISSION

Review of the *Gambling and Racing Control* (Code of Practice) Regulation 2002

POLICY PAPER

17 SEPTEMBER 2013

TABLE OF CONTENTS

1. INTRODUCTION	2
1.1 Background	2
1.2 Scope of the Review.....	3
1.3 Consultation Process.....	3
1.4 Final Policy Paper and Recommendations.....	5
2. CURRENT LEGISLATIVE REQUIREMENTS	6
3. RECOMMENDATIONS	7
4. SPECIFIC ISSUES ADDRESSED.....	10
4.1 Definition of Gambling Problem	10
4.2 Gambling Staff Training Requirements.....	11
4.3 Gambling Contact Officers.....	15
4.4 Venue Employee Gambling Restrictions.....	17
4.5 Exclusions.....	19
4.6 General Requirements in Relation to Problem Gambling	26
4.7 Cash Payment Limits	28
4.8 Restrictions on Cashing Cheques	32
4.9 Information Required in Gambling Venues	34
4.10 Clocks and Lighting.....	36
4.11 Advertising Restrictions	37
4.12 Promotions and Inducements.....	39
4.13 Player Reward Schemes.....	43
4.14 Service of Alcohol, Drink and Food in Gambling Areas.....	47
4.15 Reserving Gaming Machines.....	50
4.16 Participation in 'Better Practice' Assessment.....	52

1. INTRODUCTION

1.1 BACKGROUND

The ACT Gambling and Racing Commission (the Commission) was established in December 1999. The *Gambling and Racing Control Act 1999* (the Control Act) outlines the functions of the Commission which include:

- (a) promoting consumer protection;
- (b) minimising the possibility of criminal or unethical activity; and
- (c) reducing the risks and costs, to the community and to the individuals concerned, of problem gambling.

To assist in reducing the risks and harms associated with problem gambling, the Control Act requires the Commission to develop a Code of Practice for each gambling provider in the ACT. Following extensive public consultation, the Commission developed the *Gambling and Racing Control (Code of Practice) Regulations 2002* (the Code). The Code commenced on 1 December 2002 and was the first mandatory code of its kind in Australia. A copy of the Code is available for download from all ACT gambling licensed venues, the ACT Legislation Register at www.legislation.act.gov.au or the Commission's website at www.gamblingandracing.act.gov.au.

The Code provides gambling licensees with a minimum set of standards that must be met in providing patrons access to their gambling products. It recognises that some people have difficulties controlling their gambling behaviour and that this may lead to harm experienced by the gambler themselves, their family and associates.

The Commission conducts audits and inspections to assess licensees' compliance with the Code as part of its ongoing audit program. On an industry level there is generally a high rate of compliance with varying levels of enthusiasm in implementing the Code's requirements. However, since the Code's introduction in 2002, and subsequent review in 2004, a range of local and national research has been completed and a number of legislative changes in other jurisdictions have been implemented.

The Commission considers it now appropriate that the Code be reviewed to assess its continued effectiveness. This decision is consistent with a recommendation of the Auditor-General's April 2012 Report on *Monitoring and Minimising Harm Caused by Problem Gambling in the ACT* that also suggested that the Code be reviewed. The review of the Code of Practice will fulfill the Government's agreement in its response to the Auditor-General's report to undertake such a review.

As part of its functions under the Control Act, the Commission regularly reviews gaming laws. As part of this review process the Commission has sought feedback from stakeholders and the community which has been used to inform the Commission's recommendations on legislative amendments to the Code of Practice.

1.2 SCOPE OF THE REVIEW

This review considered the ability of the Code of Practice in its present form to achieve its harm minimisation policy objectives. The Code does not focus specifically on the problem gambler but rather provides a range of measures that aim to minimise harm to all gamblers. The review has taken into account the approaches used by other jurisdictions, changes in the industry, the Commission's regulatory experience and the now predominant public health approach to problem gambling.

While there is currently "no body of scientific evidence demonstrating consensus about the effectiveness of responsible gambling measures to prevent the incidence or reduce the prevalence of gambling-related harms"¹ the review considered the research available to date.

The conduct of this review has been consistent with the ACT Government's commitments to regulatory reform under the Council of Australian Governments. These commitments recognise that effective regulation is essential to ensure markets operate efficiently and fairly and to protect consumers. However, the benefits from each regulation must not be offset by unduly high compliance and implementation costs or restrictions on competition.

The Commission has taken into consideration the discussion and recommendations made in the Productivity Commission's 2010 Report on Gambling where it appropriately informed the review.

1.3 CONSULTATION PROCESS

The first stage of consultation included the development and release of a Discussion Paper which sought comment on the appropriateness and effectiveness of the current framework of harm minimisation measures in the Code of Practice. In addition to the current requirements, the Commission also sought feedback on any other issues or measures that stakeholders considered pertinent to reducing the harms caused by problem gambling.

¹ Blaszczyński, A. Et al. 2011 'Responsible Gambling: General Principles and Minimal Requirements', *Journal of Gambling Studies*, vol.27 p.567

Hayer, T., Meyer, G. 2011 'Self-Exclusion as a Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries', *Journal of Gambling Studies*, vol. 27 p.686

Nine submissions were received regarding the Discussion Paper from:

- ACTTAB;
- ACT Council of Social Service Incorporated;
- Ainslie Football Club;
- Australian Hotels Association – ACT Branch;
- BetSafe;
- Canberra Labor Club;
- Casino Canberra;
- ClubsACT; and
- Tatts Lotteries.

These submissions, along with further information gathered from other jurisdictions, academic research and the Commission’s own regulatory experience, were considered in the development of the draft Policy Paper. Some recommendations made in the submissions, such as amendments to the *Gaming Machine Act 2004*, were considered outside the scope of this review and as such have been noted but were not considered further in this process.

A second round of consultation specific to the draft Policy Paper was conducted by the Commission. Feedback was sought on specific draft recommendations for legislative amendments to the Code of Practice.

Ten submissions were received regarding the draft Policy Paper from:

- Access Recognised Training;
- ACT Rugby Union Club;
- ACTTAB;
- BetSafe;
- Canberra Labor Club;
- Care Inc;
- Casino Canberra;
- ClubsACT;
- Mission Australia; and
- Tatts Lotteries.

The consultation period was extended from six weeks to ten weeks following requests from stakeholders.

The Commission has also undertaken consultation on the draft recommendations through the Gambling Industry Consultative Committee (GICC) which met on three occasions to discuss the Code of Practice review. The Committee is made up of key stakeholders including representatives of the club industry, ClubsACT, AHA - ACT, ACTTAB, Casino Canberra and Betworks.

The comments received in the submissions from both stages of consultation and feedback received through the GICC have been considered by the Commission when finalising its conclusions and recommendations.

1.4 FINAL POLICY PAPER AND RECOMMENDATIONS

This final Policy Paper outlines the rationale used by the Commission to come to its final recommendations. It identifies the issues that were raised and the comments and arguments that formed part of the Commission's decision process. A list of final recommendations that will form the basis for proposed legislative amendments are included in the Policy Paper. It is a matter for the Minister for Racing and Gaming, and ultimately the ACT Legislative Assembly, to consider the Commission's recommendations.

2. CURRENT LEGISLATIVE REQUIREMENTS

The following table provides a summary of the current main requirements that apply to each licensee or gambling activity under the Code of Practice.

	Casino	Gaming Machine	Bookmakers	ACTTAB	Lotteries ²
Gambling Staff Training Requirements	✓	✓	✓	✓	✓
Gambling Contact Officers	✓	✓	✓	✓	✓
General Requirements in Relation to Problem Gambling	✓	✓	✓	✓	✓
Staff Gambling Restrictions	✓	✓	✓	✓	✓
Exclusions	✓	✓	✓	✓	✗
Location of Cash Facilities	✓	✓	✗	✗	✗
Cash Payment Limits	✓	✓	✓	✓	✓
Restrictions on Cashing Cheques	✓	✓	✗	✗	✗
Information Required in Gambling Venues	✓	✓	✓	✓	✓
Clocks and Lighting	✓	✓	✗	✗	✗
Advertising Restrictions	✓	✓	✓	✓	✓
Promotions and Inducements	✓	✓	✓	✓	✓
Player Reward Schemes	✗	✓	✗	✗	✗

² Lotteries licensees under the Code of Practice are defined as anyone authorised to conduct a lottery, scheme or competitions authorised under the *Lotteries Act 1964* or *Pool Betting Act 1964* other than a calcutta sweepstake, trade promotion (except where gambling is incorporated), raffle, progressive lottery or silver circle and an exempt lottery other than Housie.

3. RECOMMENDATIONS

1. Amend Schedule 1, Section 1.2(1) of the Code to adopt the Gambling Research Australia definition of problem gambling.
2. Amend Schedule 1, Section 1.4 of the Code to require that all staff involved in the provision of gambling services must have undertaken an approved Responsible Service of Gambling training program within the last three years.
3. Amend Section 9 of the Code to state that the Commission may revoke the approval of an approved training program if it is deficient along with appropriate review mechanisms.
4. Amend Section 9 of the Code to provide for an approved form and determined fee for the approval of a training program.
5. Amend the Code to require that each GCO must have undertaken an approved training program within the last three years.
6. Amend the Code to require that each GCO must undertake at least one development or training session or course per year in relation to problem or responsible gambling. For a course to be eligible it must be approved by the Commission.
7. The existing Code restriction under Schedule 1, Section 1.4 that a staff member must not take part in gambling at the venue where they are employed, or allow anyone else to take part on their behalf should be maintained.
8. Amend the existing Code requirements to state under new Section 13A that:
 - (i) a licensee must use the online exclusion database approved by the Commission for all Deeds of Exclusions (Schedule 1, Section 1.13) and Exclusion of People at Risk (Schedule 1, Section 1.14);
 - (ii) a licensee must view the online exclusion database within three trading days upon receipt of an email notification of a new or updated Deed of Exclusion;
 - (iii) only persons authorised by the Commission may enter into or alter information in the online exclusion database; and
 - (iv) only authorised persons may access the online exclusion database.
9. Amend the Code to include an offence provision for licensees or persons who are not compliant with new section 13A. Delay commencement of this provision for a period of three months from the commencement of the online database.
10. Amend the existing Code requirements under Schedule 1, Section 1.13(2) to include that the minimum exclusion period shall be six months and the maximum period shall be three years.
11. Amend the existing Code requirements under Schedule 1, Section 1.13(3) to state that a person must give the signed Deed to the licensee or person authorised to enter information and agree to have their photo taken to be included in the Database.
12. Amend the existing Code requirements under Schedule 1, Section 1.13(5) to state that the licensee or authorised person must enter the Deed and photograph into the online

exclusion database and complete all necessary information requirements identified in the database. This must occur within three trading days of the Deed being completed.

13. Amend the existing Code requirements under Schedule 1, Section 1.13(6) to include that the licensee or authorised person must send the completed Deed to all nominated licensees and the Commission using the Database and provide a copy to the person seeking exclusion.
14. Amend the Code of Practice to state that if a self-excluded person wishes to revoke their exclusion before the expiry date, they must complete the approved form and wait for the seven day 'cooling off' period to end before the self-exclusion is revoked.
15. Amend the Code to state that excluded and underage persons are ineligible to claim a prize or winnings. Any such winnings or prizes are to be retained by the licensee and dispersed to patrons of the facility generally through the offer of additional prizes or winnings as approved by the Commission.
16. Repeal Section 20 of the Code.
17. Repeal Schedule 1, Section 1.18 of the Code.
18. Amend the existing Code requirements under Schedule 1, Section 1.6 to require the mandatory use of an online problem gambling incident register by gaming machine licensees, ACTTAB and Casino Canberra.
19. The cash payment limits for licensees should be adjusted to: Casino (\$25,000), Bookmaker (\$25,000), ACTTAB (\$25,000), Lotteries (\$5,000), Keno (\$5,000), Trackside (\$5,000) Gaming machines (\$1,500) and Housie (\$1,250).
20. All gaming machine winnings payments over \$300 must be paid by cheque or EFT transfer if requested by a patron.
21. Amend the existing Code requirements under Schedule 1, Section 1.25 'Availability of Information' to state that gaming machine licensees are required to advertise that gaming machine payments over \$300 must be paid by cheque or EFT transfer if requested by a patron.
22. The existing Code requirements in relation to the cashing of cheques should be maintained.
23. The existing Code requirements in relation to the availability of information should be maintained.
24. Relocate existing provision under Schedule 1, Section 1.17(3) to Schedule 1, Section 1.25 'Availability of Information'.
25. The existing Code requirements in relation to clocks and lighting should be maintained.
26. The existing Code requirements in relation to advertising should be maintained.
27. Amend the Code to state that a patron may request that no personally addressed promotional material be sent to them by ACTTAB, Casino Canberra or a gaming machine licensee. Once requested, a licensee would be required to comply with such a request until that patron specifically revoked it in writing.

28. Amend the existing Code requirements to state that any promotion where entry is possible by playing gaming machines must include at least one alternative method of entry not requiring gaming participation.
29. Amend Schedule 1, Section 1.30(2)(c) to prohibit an ACT licensed sports bookmaker from offering an inducement to open a bookmaking account.
30. Amend the existing Code requirements under Schedule 1, Section 1.30(3) to state: *‘a player reward scheme, includes a player loyalty scheme, where persons accumulate points which can be redeemed for rewards or benefits’*.
31. Amend the existing Code requirements under Schedule 1, Section 1.30(4)(a) to state: *‘conduct a promotion or offer an inducement at the licensee’s facility that encourages people to increase their intensity of betting such as the rate of betting or the amount of each bet’*.
32. The maximum value of an individual or single prize offered by a gaming machine licensee under a player reward scheme should be \$1,000. Where a prize consists of several components, the value of the prize is the sum of the components.
33. Amend the Code to state that player reward scheme points must be redeemable for a range of prizes, rather than just gambling credits.
34. Amend the Code to prohibit alcohol being served to a person playing, seated or standing at a gaming machine.
35. No restriction should be placed in the Code on a patron’s ability to reserve a gaming machine.
36. The development of the ‘Better Practice Guide’ for gaming machine licensees should be undertaken with consultation with the industry and include an appropriate assessment and reporting mechanism.

4. SPECIFIC ISSUES ADDRESSED

The following issues were identified as those areas within the Code of Practice that should receive attention in relation to their operation, clarity or content and warrant consideration as part of this review. Each issue is identified in terms of legislative requirement, the issues relating to its operation, relevant inter-state comparisons, comments received under the consultation process, the overall conclusion reached by the Commission in balancing all input and finally the recommendation for change or otherwise.

4.1 DEFINITION OF GAMBLING PROBLEM

CURRENT LEGISLATIVE REQUIREMENTS³

The Code of Practice describes a person having a gambling problem if *“the person cannot manage properly the person’s gambling activities”*.

ISSUES AND DISCUSSION

The current definition of gambling problem in the ACT Code of Practice differs from definitions found in other jurisdictions in that it does not contain an element of harm. Problem gambling was defined by a 2005 Gambling Research Australia (GRA) research report⁴ as *“Problem Gambling is characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community”*.

INTER-JURISDICTIONAL COMPARISON

Queensland and Tasmania currently use the GRA definition in their Codes of Practice to define problem gambling.

CONSULTATION

BetSafe recommended that the definition of gambling problem be reviewed in their submission to the Discussion Paper.

The majority of submissions to the draft Policy Paper that commented on the recommendation supported adopting the GRA definition of problem gambling. ACTTAB,

³ These requirements can be found under Schedule 1, s.1.2 of the Code of Practice.

⁴ Neal, P, Defabbro, P and O’Neil, M. 2005 ‘Problem Gambling and Harm: Towards a National Definition’, *Gambling Research Australia*.

Tatts Lotteries, BetSafe and the Labor Club supported the amendment, while ClubsACT suggested an amended version of the definition. ClubsACT advise they were against the new definition on the basis that they believe it infers that problem gambling always involves consequences for others or the community.

CONCLUSION

The Commission considers that the GRA definition for problem gambling is more robust and encompassing than the current definition in the Code and that there is a clear benefit in including a national definition that has been adopted by other Australian jurisdictions. The definition is based on a well considered research paper that analysed the issues surrounding the task of defining problem gambling.

In this context it would be considered desirable to replace the current definition within the Code and adopt the GRA definition.

The Commission considered the argument put forward by ClubsACT, but believes that the definition suggests a range of possible impacts on different target groups including the gambler, others or the community. As a result the Commission has determined to adopt this definition while noting the different view held by ClubsACT.

RECOMMENDATION

1. Amend Schedule 1, Section 1.2(1) of the Code to adopt the Gambling Research Australia definition of problem gambling.

4.2 GAMBLING STAFF TRAINING REQUIREMENTS

CURRENT LEGISLATIVE REQUIREMENTS⁵

The Code requires that all staff members who are directly involved in providing gambling services to patrons and their supervisors must successfully complete an approved training program every five years. This is referred to as Responsible Service of Gambling (RSG) training.

Section 9 of the Code states that the Commission may approve a training program on providing gambling services. There are no legislative requirements on who may deliver an approved training program or the content of a training program.

⁵ These requirements can be found under s.6 and Schedule 1, s.1.4 & s.1.5 of the Code of Practice.

As the first point of contact for a patron, gambling staff play an important role in assisting people who may have a problem with gambling. Staff training is considered to be an essential component in ensuring relevant staff provide responsible gambling environments, information and assistance to patrons and are aware of their legislative responsibilities under the Code of Practice. The Commission is concerned that five years may be too long between training programs for staff to remain informed of the requirements of the Code and broader harm minimisation initiatives. More frequent training would provide a reminder of the key points and keep harm minimisation concepts more topical for staff. While there may be some advantages in terms of perception and awareness in having all staff employed in a gaming venue undertake training, there is concern that broadening the existing requirements may be overly costly to the industry.

The ACT Auditor-General's Office in their April 2012 Report *Monitoring and Minimising Harm Caused by Problem Gambling in the ACT* recommended that the Commission encourage licensees to ensure staff conduct refresher training every three years. Several licensees have already voluntarily addressed this by providing in-house staff refresher training.

The Commission is considering enhanced assessment methods for approved training programs to ensure greater quality and effectiveness of the training. Currently, training programs may be conducted by an external organisation or by a licensee provided that the program is approved by the Commission.

The Australian Skills Quality Authority (ASQA) is the national regulator for Australia's vocational education and training sector and is responsible for registering training organisations and accrediting their courses. Only certified Registered Training Organisations (RTOs) are permitted to deliver approved courses. ASQA has developed a framework designed to test the quality and effectiveness of training courses. In determining whether to proceed with requiring accreditation through ASQA, consideration must be given to the cost burden this would place on training providers. An exemption could be provided to an organisation that meets the broad training principles but would find it impractical or cost prohibitive to achieve ASQA accreditation.

While the Code allows for the approval of training programs, it does not explicitly state that the Commission may revoke an approval or what grounds would be appropriate. There is currently no fee or approved form for training program assessment by the Commission – a process that can be extremely time consuming for Commission staff.

INTER-JURISDICTIONAL COMPARISON

All jurisdictions vary in their provision of responsible service of gambling training. In New South Wales and Queensland staff involved in providing gambling services must hold a Responsible Conduct of Gambling (NSW) or Responsible Service of Gambling (QLD) certificate. Once the certificate is obtained there is no requirement to refresh their knowledge. Victoria require training to be refreshed every three years while South Australia requires training to be refreshed every two years.

CONSULTATION

Submissions were generally supportive of relevant venue staff being required to complete refresher training every three years. Care Inc, Casino Canberra, ACTCOSS, BetSafe, ClubsACT and the Labor Club agreed that holding refresher courses every three years would be beneficial, while Tatts Lotteries, ACT Rugby Union Club, Ainslie Football Club and ACTTAB stated that the current five year requirement was sufficient. Some licensees stated that they already have an in-house policy of offering refresher courses every two or three years.

Submissions were divided on whether training should be extended to all venue staff. Tatts Lotteries, Ainslie Football Club, ClubsACT and ACTTAB stated that training requirements should not be broadened while Casino Canberra and the Labor Club stated that training should be extended to all operational staff.

ClubsACT was supportive of training providers being accredited by ASQA while Access Recognised Training stated that it would be cost prohibitive to gain accreditation. ACTTAB, Tatts Lotteries, BetSafe and Access Recognised Training stated that they believe they should qualify for an exemption from ASQA accreditation given their good record as a training organisation.

No submission was against amending the Code to state that Commission approval for training programs may be revoked where a program is found to be deficient. Similarly, submissions generally supported the introduction of an approved form and determined fee for the approval of a training program.

CONCLUSION

It is widely accepted and practised that front-line staff involved in the provision of gambling services should receive training in this area. It is less clear how often training should occur, however it is evident that the gambling environment is dynamic and subject to change. On balance, it is considered appropriate that all staff involved in the provision of gambling services and their supervisors undertake an approved training program every three years to enhance and refresh their knowledge and be informed of updated information and

requirements. It should not be mandatory that all venue staff be required to undertake training however it would be considered 'better practice'.

It is also proposed that the Code of Practice be amended to incorporate an application fee and approved form for the approval of a training program. The form would assist in describing the information required by the Commission and the fee would provide a reasonable recovery of the cost of the assessment. Where a training program was found to be consistently deficient, it is considered desirable that criteria be established for the Commission to revoke the approval of a training program along with appropriate review mechanisms.

In order to ensure that the quality and effectiveness of approved training programs was adequate and delivering their intended outcomes, it was proposed in the draft Policy Paper that as a principle all approved training providers should be accredited by ASQA and that an exemption could be provided to appropriate organisations. Submissions to the draft Policy Paper stated that it may be cost prohibitive for their organisation to achieve ASQA accreditation where they did not qualify for an exemption.

Following recent discussions, ASQA have advised that their fees will shortly be substantially increased as they move to charging on a 'cost recovery' basis. Given that the ACT is a small market for RSG and GCO training courses it would appear cost prohibitive to require training providers to become accredited with ASQA. On this basis, the Commission no longer proposes that training organizations be accredited by ASQA.

RECOMMENDATIONS

2. Amend Schedule 1, Section 1.4 of the Code to require that all staff involved in the provision of gambling services must have undertaken an approved Responsible Service of Gambling training program within the last three years.
3. Amend Section 9 of the Code to state that the Commission may revoke the approval of an approved training program if it is deficient along with appropriate review mechanisms.
4. Amend Section 9 of the Code to provide for an approved form and determined fee for the approval of a training program.

4.3 GAMBLING CONTACT OFFICERS

CURRENT LEGISLATIVE REQUIREMENTS⁶

Each gambling licensee must nominate at least one Gambling Contact Officer (GCO) who must have successfully completed an approved GCO training program within the previous five years. Although a GCO must be available, the Code does not require a GCO to be present at the facility at all times.

The GCO has several important functions and responsibilities under the Code of Practice, including:

- maintaining a record of a person's behaviour that led the GCO to believe they have a gambling problem;
- acting on any information received that would lead the GCO to believe that a person may have a gambling problem;
- providing information about problem gambling and details of counselling services; and
- maintaining a record of excluded persons relating to problem gambling.

ISSUES AND DISCUSSION

The GCO is the key point of contact for staff and patrons seeking information about responsible gambling and dealing with problem gambling issues. A venue's GCO is the appropriate person to make contact with patrons of a venue who may be gambling excessively or experiencing problems. A GCO should have a sound knowledge of their responsibilities including the relevant gaming laws such as the Code of Practice and its harm minimisation provisions. This allows a GCO to monitor the gambling related activities of patrons and assist other staff with minimising the harm from problem gambling.

Given the responsibilities of GCOs it is widely agreed that some level of training over and above that received by front-line staff is essential for them to perform their role. There is concern that five years may be too long a period between training programs for GCOs to remain up to date with current gaming laws and harm minimisation practices.

The ACT Problem Gambling Counselling and Support Service (operated by Mission Australia) liaises with and supports GCOs as part of its performance requirements. The Service offers information seminars and forums for GCOs and venue staff to further enhance their skills such as approaching problem gamblers and communicating with family and friends of problem gamblers. Given the pivotal role a GCO has in assisting

⁶ These requirements can be found under Schedule 1, s.1.10 & s.1.11 of the Code of Practice.

problem gamblers, it would be beneficial if GCOs were to attend at least one development or training session or course each year. This could include attending an approved GCO training course, a GCO forum or any other development session recognised by the Commission as being useful in performing their role.

INTER-JURISDICTIONAL COMPARISON

In 2002 the ACT Code of Practice implemented the first requirement for a GCO to be available at gambling venues in Australia. Since 2002 New South Wales, the Northern Territory, South Australia, Victoria, Tasmania and Western Australia have implemented mandatory requirements for GCOs. Queensland have implemented a voluntary Code of Practice that includes a similar role (Customer Liaison Officer).

CONSULTATION

Submissions were generally supportive of the requirement for GCOs to undertake training on a more frequent basis. Casino Canberra, Care Inc, Ainslie Football Club, ACTCOSS, BetSafe, ClubsACT and the Labor Club agreed that holding GCO refresher courses every three years would be useful, while Tatts Lotteries, ACT Rugby Union Club and ACTTAB stated the current five year requirement is sufficient.

While supportive of the role of GCO forums, submissions generally did not support mandatory attendance.

CONCLUSION

The submissions received on the Discussion Paper and draft Policy Paper generally supported the view that a GCO should be required to complete an approved training course every three years.

As the main point of contact for problem gamblers, the Commission considers it essential that GCOs continue to update their knowledge and skill base. While the basic training of GCOs even at the more frequent three year interval provides a good general knowledge of the Code, broader development and discussion opportunities on a more frequent basis would be beneficial. These additional opportunities would provide valuable skill enhancement and support to GCOs in a similar manner used by many professional associations (eg psychologists, medical practitioners, lawyers, accountants).

On this basis, it is recommended that GCOs undertake one development or training session or course per year in relation to problem or responsible gambling. Certain events (such as GCO training, GCO forums, ANU research seminars, relevant conferences such as NAGs, etc) would be approved by the Commission as eligible for development accreditation. In addition, venues could apply to the Commission for recognition of any

other event they may consider relevant and appropriate. The Commission would take a broad approach in considering what activities would be approved including the conduct of a relevant course by a GCO for other staff in their organisation, provided the appropriate supporting documentation was available for the Commission to review.

RECOMMENDATIONS

5. Amend the Code to require that each GCO must have undertaken an approved training program within the last three years.
6. Amend the Code to require that each GCO must undertake at least one development or training session or course per year in relation to problem or responsible gambling. For a course to be eligible it must be approved by the Commission.

4.4 VENUE EMPLOYEE GAMBLING RESTRICTIONS

CURRENT LEGISLATIVE REQUIREMENTS⁷

The Code requires that staff must not take part in gambling at the venue where they are employed or allow anyone else to take part on their behalf.

ISSUES AND DISCUSSION

The Code recognises that there may be an actual or perceived conflict of interest resulting from venue staff gambling at their place of employment. In addition, the restrictions on staff gambling at their place of employment aim to minimise potential harm resulting from staff taking the readily available opportunity to participate in gambling at work. There is a researched propensity for employees of gambling venues to gamble at a higher rate than the general population. Studies conducted in Queensland and Victoria have found that the prevalence of problem gambling among venue staff is higher than the general community. In Victoria the prevalence of problem gambling among venue staff was found to be six times higher than the general population, in Queensland (examining a smaller sample) it was sixteen times the general population level.⁸

The Victorian gambling study found that:

“The gambling environment is a familiar one and staff often face peer pressure from work colleagues and patrons to gamble. Close interaction with gamblers

⁷ These requirements can be found under Schedule 1, s1.4 (1)(a)(ii) the Code of Practice.

⁸ Hing, N., Breen, H. 2006. Gambling by Employees of Queensland Gaming Venues: Workplace Influences on Responsible Gambling and Problem Gambling. *Centre for Gambling Education and Research For the Research and Community Engagement Division of Queensland Treasury.*

and exposure to gambling tended to normalise gambling and heavy gambling, increasing its social acceptance.”⁹

The ACT Legislative Assembly Select Committee on Estimates 2012-13 in its August 2012 report provided in Recommendation 89 that the Commission consider exempting staff of newsagents from the general restriction on gambling venue staff taking part in gambling at those facilities.

While lotteries can be considered a low risk gambling activity, they are not a ‘no’ risk activity. Scratchies in particular provide a continuous form of gambling and instantaneous gratification, which is frequently used as a measure of risk for gambling spending.¹⁰

Staff who engage in gambling at their place of work may also be open to a material or perceived conflict of interest. Patrons observing a staff member win a prize could conclude that inside knowledge or preferential treatment has been given. It is considered best to avoid any perception of impropriety.

INTER-JURISDICTIONAL COMPARISON

Although individual licensee policies may vary, venue staff in other jurisdictions are not restricted in gambling at their place of employment.

CONSULTATION

Submissions supported staff not engaging in gambling at their place of work. Tatts Lotteries stated that while they believe the majority of lottery products are low risk in nature, they support maintaining the current restrictions due to the level of risk associated with scratchies.

CONCLUSION

There is support for continuing the current prohibition on allowing staff to gamble at their place of work. The broad support of the prohibition was primarily based on harm minimisation reasons, as the prevalence of problem gambling amongst staff at their place of work is well documented.

In relation to the discussion around the lower risk of lottery products, while it is accepted that these are lower risk products they are not ‘no’ risk products, especially with scratchies which can provide a continuous reinforcement schedule by multiple purchases in quick

⁹ Hing, N. 2009. Examining gambling by staff from Victorian gaming venues: a comparison with the general Victorian population. *Gambling Research*, vol. 21, no. 2, pp. 35-52.

¹⁰ Felsher, J, Devenensky, J & Gupta, R, 2004. Lottery participation by youth with gambling problems: Are lottery tickets a gateway to other gambling venues?, *International Gambling Studies*, Vol.4, No.2

succession. Staff being faced with, or 'normalised' to, gambling products all day as part of their work duties have been identified as having increased risk of problem gambling behavior.

It was also identified that a perceived (or possible actual) conflict of interest existed with staff gambling at their place of employment, especially if staff won a prize in front of customers.

On balance, it was concluded that the current prohibition on staff gambling at their place of employment should continue.

RECOMMENDATION

7. The existing Code restriction under Schedule 1, Section 1.4 that a staff member must not take part in gambling at the venue where they are employed, or allow anyone else to take part on their behalf should be maintained.

4.5 EXCLUSIONS

CURRENT LEGISLATIVE REQUIREMENTS

The Code provides for two types of exclusions: licensee initiated exclusions and voluntary self initiated exclusions¹¹. If a person is excluded from a venue, either by self exclusion or by a licensee exclusion, the licensee must prevent the excluded person from gambling at the facility.

4.5.1 Self exclusions

Self exclusion occurs when a person chooses to voluntarily exclude themselves from one or more gambling facilities. A licensee, if asked by a person claiming to have a gambling problem, must enter into a Deed of Exclusion with that person. The Deed makes it compulsory for a licensee to exclude a person from their facility or venue and must not pass on the exclusion details to other venues nominated by the person.

The Deed may be made indefinitely or for a period of time nominated by the person self-excluding from the venue. There is no legislated minimum or maximum period and the Deed may be revoked by the person at any time.

4.5.2 Licensee initiated exclusions

The Code requires a licensee to exclude a person from gambling at the licensee's facility if the licensee has reasonable grounds for believing that the welfare of the person, or any of

¹¹ Regulations 1.12 to 1.20 of the Code outlines the requirements for all forms of exclusions.

the person's dependants, is seriously at risk because of the person's gambling problem. A person that is excluded by a licensee is not permitted to utilise the licensee's gambling facilities and must be denied entry or removed from the gambling facility.

ISSUES AND DISCUSSION

Currently people seeking self exclusion are required to fill out a paper-based Deed at the originating venue that is then faxed or mailed to any other venue nominated in the Deed. There is no limit to the number of venues that can be nominated and an ACT wide exclusion is possible. The Commission is currently finalising the implementation of an online exclusion database which will increase the effectiveness of the system by providing a central database and electronic method for advising venues of exclusions. The database will replace the existing paper based system and will substantially reduce the administrative workload on both receiving and nominated venues.

The Commission is anticipating that the online exclusion database will be operational by late 2013. All gaming machine licensees will be required under the Code to use and regularly check the system. Transferring to an online system will require a number of amendments to the Code for the operation of the new database.

Exclusions in the ACT do not currently have a minimum prescribed period. This is left to the licensee and patron to decide on a case-by-case basis. Self exclusion requirements have been flexible to allow venues to tailor an exclusion to an individual's needs and to encourage the patron to finalise their exclusion. However, most other jurisdictions specify a minimum period, for example Tasmania has six months, Victoria has six months and New South Wales has three months (although most approved schemes in NSW have adopted either six or twelve months as a minimum period).

A legislated minimum period for exclusion provides a break from gambling for a reasonable period in an attempt to allow the person to adjust their gambling behavior, seek assistance and to recover financially. However, requiring a minimum period may also deter people from self-excluding in the first place if they perceive the requirements to be too onerous.

The Commission recognises that the end of a period of exclusion does not necessarily equate to the end of a person's problems with gambling. Evidence from longitudinal studies indicates that people shift between different levels of harm over time. There is currently no formal process for allowing a person to re-enter premises after the expiry of an exclusion Deed and licensees' procedures vary in their approach. Some licensees simply allow a person to resume gambling at the facility once their Deed has expired, others seek an assessment of the person's risk of continued gambling issues prior to allowing re-entry to their venue while others do not allow any return to the venue. Given the wide variety of approaches taken by licensees the Commission considers that there may be some benefit to

developing minimum requirements for dealing with the expiry of exclusions. Consideration was therefore given to the possibility of venues contacting self-excluded people prior to the expiry of their Deed to determine whether they wish to enter into a new Deed. This approach has been successfully adopted by ACTTAB.

To ensure a consistent approach it may also be appropriate for people who wish to revoke their self exclusion prior to their agreed expiry date, to have their application processed through the Commission where a 'cooling-off' period could be invoked. It would still be up to the individual licensee to determine whether to allow a patron back into their venue or to proceed with a licensee initiated exclusion if the patron was still considered to be at risk.

The Code requires that licensees exclude a person from gambling if the licensee has reasonable grounds for believing that the welfare of the person, or any of the person's dependants, is seriously at risk because of the person's gambling problem. Concern was raised by a counselling provider as part of the consultation process that a licensee should be intervening, including entering into a licensee initiated exclusion, before a person's welfare is considered to be 'seriously at risk'. The Commission considered this to be a valid point and reflects that licensees should intervene once a person's gambling is, or is likely to be significantly detrimental, on themselves or their dependants. As a result, consideration was given to amending this requirement by possibly redefining the trigger point when a licensee must initiate a player exclusion, such as if the person or their dependants are significantly or materially at 'risk'.

In relation to claiming prizes, the Code is currently silent on whether excluded and underage patrons, or anyone on their behalf, are eligible to claim gambling prizes or winnings. Currently these funds are treated as unclaimed prizes on the basis that the patron is ineligible to gamble and therefore ineligible to win a prize. As such, and in the absence of any alternative authority, the winnings are treated as unclaimed prizes and forfeited to the Territory. However, it is considered fairer to licensees and other patrons that winnings or prizes be retained by the licensee for approved re-distribution to non-excluded patrons, such as through separate draws or additions to other prizes. To ensure the proper operation of this scheme the Commission should approve the proposed re-distribution.

INTER-JURISDICTIONAL COMPARISON

Tasmania is the only jurisdiction which currently has a state-wide online exclusion system in place.

All Australian jurisdictions have provisions for self exclusion. However, the ACT is the only jurisdiction that requires licensees to exclude people where the licensee has reasonable grounds for believing that the welfare of the person or any of the person's dependants is seriously at risk because of the person's gambling problem.

The majority of jurisdictions do not require an excluded person to attend problem gambling counselling prior to rescinding their exclusion, although some venues and schemes have adopted this as a matter of policy. Tasmania allows an excluded person to revoke their exclusion through a gambling help counsellor after a period of six months. Should they wish to seek a revocation before this time they are required to apply directly to the Tasmanian Gaming Commission.

CONSULTATION

Submissions were divided over whether an excluded person should be required to attend at least one counselling session with the ACT's Gambling Counselling and Support Service. Ainslie Football Club, ACTCOSS, BetSafe and Labor Club supported the proposal while Casino Canberra, ClubsACT and ACTTAB did not. Submissions raised concerns that it may discourage people from excluding. In addition, there is the question of the usefulness of a counselling session if the person does not want to participate.

The vast majority of submissions supported a minimum exclusion period being introduced. A twelve month period was the most commonly suggested minimum exclusion period, however three or six months was also recommended. ACTTAB stated that they already have an internal policy where the minimum period for a self exclusion is twelve months.

Submissions varied greatly in their suggested maximum period of exclusion with some submissions arguing for no maximum period ie. essentially a life exclusion.

ClubsACT suggested a cooling off period of seven days where a person can revoke their exclusion. The Labor Club recommended that where an excluded person seeks to revoke their Exclusion Deed, that person should be required to apply to the Commission for approval of the revocation as part of the re-admission process. BetSafe and the Labor Club recommended that excluded persons should not be able to claim any winnings or jackpots and that these prizes should be forfeited.

Submissions strongly opposed contacting self-excluded persons prior to their Deed expiring. Reasons provided for not supporting this recommendation included privacy concerns and the belief that there was a risk that this contact could act as a trigger to actually reinvigorate the urge to gamble. It was suggested that any person contacting an excluded individual should have appropriate qualifications and this responsibility could fall to the ACT Gambling Counselling and Support Service.

CONCLUSION

Any scheme or mechanism that provides for a person to exclude themselves from gambling at a facility because they have identified themselves as having a gambling problem should be as simple and easy as possible. Implementing an online exclusion

database will speed up the exclusion process, improve security of information and reduce the administrative workload on both the receiving and nominated licensees. It is proposed that the use of the online exclusion database would be mandatory under the Code once it has been fully implemented and venues trained in its use. Licensees would be required to login and check the database periodically to ensure their exclusion list was up to date. In addition to the extensive privacy controls, the integrity and security of data would be controlled by only allowing persons authorised by the Commission to enter or alter information.

An offence provision would be required if the use of the Database was to be made mandatory. It is envisaged that users of the system would have a reasonable period such as three months after the Database is implemented before any offence provisions apply. The offence provisions would of course have reasonable grounds as an excuse for non compliance.

People who wish to self exclude will have the option of forwarding the signed Deed to a licensee or the Commission. The receiver of the Deed will be required to enter the information into the database and arrange for a photo to be taken and uploaded. The introduction of the online database will no longer require the manual circulation of the Deed to other nominated venues. These changes will require amendments to Schedule 1, Section 1.13 of the Code to formalise this process.

Licensees would also no longer be required to keep a register of excluded people. This function would be performed by the database. Therefore Section 20 and Section 1.18 of Schedule 1 of the Code of Practice would not be required and could be repealed.

Although there is a lack of empirical evidence to suggest what period of exclusion is most effective in assisting individuals to control their gambling, submissions strongly supported introducing some minimum period to ensure individuals have an extended break from gambling. During its deliberations the Commission was careful to consider that the minimum period should not deter a person from self-excluding in the first place due to the period being seen as too long or onerous.

A 2013 study¹² by Dr Sally Gainsbury suggested that self-exclusion agreements should be a minimum of six months to allow individuals sufficient time to enter treatment if desired or to otherwise deal with their gambling problems. This view was also consistent with the 2010 Productivity Commission Inquiry Report on Gambling.

¹² Gainsbury, S, 2013. Review of Self-exclusion from Gambling Venues as an Intervention for Problem Gambling, *Journal of Gambling Studies*, 22 January 2013.

On balance the Commission believes that a six month minimum period of exclusion is appropriate and consistent with the approach taken by a number of other Australian jurisdictions. The Commission believes this period would not deter the majority of people from entering into a self-exclusion Deed. An analysis of current and expired self-exclusion Deeds found that less than two per cent of these self-exclusions were for a period of six months or less. The six month period would be a minimum and it would be a matter for individual licensees if they wished to adopt a policy of having a longer minimum period (as is currently the case).

In order to recognise the voluntary nature of a self-exclusion Deed, the minimum exclusion period would be a condition of the Deed which would apply once the Deed is signed. The individual would agree to abide by the minimum exclusion period but would also have the option to apply for the Deed to be revoked at any time.

The Commission also recommends that the maximum period for self-exclusion should be three years to ensure that the database maintains up to date information and photos of the person and to ensure that an individual's human rights are not infringed by enforcing lifetime venue bans that are based on an agreement an individual may have entered into decades ago.

Minimum and maximum self-exclusion periods would not apply to existing self-exclusion Deeds.

In order to streamline the process for revoking a self-exclusion Deed before the expiry date, the Commission recommends that an individual would be required to complete an approved Revocation Application. The Application could be lodged at any gambling licensee or with the Commission. Gambling licensees would then forward the Application to the Commission for processing. The revocation would not be effective until seven days after its receipt which would act as a 'cooling-off period' for the patron. This period would also provide the licensee with sufficient time to consider, and implement where necessary, a licensee-initiated exclusion if appropriate. It should remain a matter for each venue to decide whether a re-entering patron should attend at least one gambling counselling session prior to re-entry.

In relation to claiming prizes by ineligible persons (such as excluded and underage persons) it should be made explicit in the Code that such persons cannot claim any prize or winnings. Any winnings or prizes won by an ineligible person should be retained by the licensee and dispersed to other patrons through a suitable mechanism of additional prizes or winnings as approved by the Commission. As raised by ACTTAB, this would only apply to winnings and would not apply to a scenario where a licensee identifies an excluded person and is able to cancel their bet prior to the outcome of the bet being determined.

To ensure a consistent standard across the industry in dealing with the expiration of a self-exclusion Deed, the Commission proposed in its draft Policy Paper that licensees should use their best endeavors to contact the self-excluded person prior to the expiration of their Deed to determine whether they wish to enter into a new Deed. It was also proposed that a person would have the opportunity to 'opt out' of being contacted. Significant concerns were raised by industry stakeholders in submissions over potential privacy issues and the risk of encouraging re-entry to venues. It was therefore considered that the possible benefits to the individual of re-assessing whether to extend their self-exclusion were not sufficient to pursue this recommendation and it will therefore not be adopted.

The Commission also recommended in its draft Policy Paper amending the Code under Schedule 1, Section 1.14(1)(a), to require that a licensee-initiated exclusion be performed where the welfare of the person or their dependants is '*significantly or materially at risk*' rather than '*seriously at risk*'. This was proposed on the basis it would slightly lower the threshold for intervention and encourage a greater number of licensee exclusions to be considered. On further consideration of submitters' views, the Commission recognises that amending the definition as proposed is unlikely to have any practical effect on venue staff decisions to approach a patron. On this basis the recommendation will not be pursued. It is proposed that the Commission will continue to support licensees and Gambling Contact Officers through enhanced training and other opportunities.

RECOMMENDATIONS

8. Amend the existing Code requirements to state under new Section 13A that:
 - (i) a licensee must use the online exclusion database approved by the Commission for all Deeds of Exclusions (Schedule 1, Section 1.13) and Exclusion of People at Risk (Schedule 1, Section 1.14);
 - (ii) a licensee must view the online exclusion database within three trading days upon receipt of an email notification of a new or updated Deed of Exclusion;
 - (iii) only persons authorised by the Commission may enter into or alter information in the online exclusion database; and
 - (iv) only authorised persons may access the online exclusion database.
9. Amend the Code to include an offence provision for licensees or persons who are not compliant with new section 13A. Delay commencement of this provision for a period of three months from the commencement of the online database.
10. Amend the existing Code requirements under Schedule 1, Section 1.13(2) to include that the minimum exclusion period shall be six months and the maximum period shall be three years.

11. Amend the existing Code requirements under Schedule 1, Section 1.13(3) to state that a person must give the signed Deed to the licensee or person authorised to enter information and agree to have their photo taken to be included in the Database.
12. Amend the existing Code requirements under Schedule 1, Section 1.13(5) to state that the licensee or authorised person must enter the Deed and photograph into the online exclusion database and complete all necessary information requirements identified in the database. This must occur within three trading days of the Deed being completed.
13. Amend the existing Code requirements under Schedule 1, Section 1.13(6) to include that the licensee or authorised person must send the completed Deed to all nominated licensees and the Commission using the Database and provide a copy to the person seeking exclusion.
14. Amend the Code of Practice to state that if a self-excluded person wishes to revoke their exclusion before the expiry date, they must complete the approved form and wait for the seven day 'cooling off' period to end before the self-exclusion is revoked.
15. Amend the Code to state that excluded and underage persons are ineligible to claim a prize or winnings. Any such winnings or prizes are to be retained by the licensee and dispersed to patrons of the facility generally through the offer of additional prizes or winnings as approved by the Commission.
16. Repeal Section 20 of the Code.
17. Repeal Schedule 1, Section 1.18 of the Code.

4.6 GENERAL REQUIREMENTS IN RELATION TO PROBLEM GAMBLING

CURRENT LEGISLATIVE REQUIREMENTS¹³

The Code of Practice places several obligations on licensees in relation to problem gambling, including the keeping of an incident register.

Licensees are to keep a record of any incident where a person shows signs of having a gambling problem or where an excluded person is identified in the gaming area of the facility. The details of the incident must be recorded as well as any action that was taken by staff.

Licensees are also prohibited from encouraging a person to gamble beyond their means. Where a licensee is asked by a person about problem or responsible gambling, the

¹³ These requirements can be found under Schedule 1, s.1.3 & s.1.6 - s.1.8 of the Code of Practice.

licensee must take reasonable steps to give the person advice or information about available counselling services.

Additionally, Casino Canberra and gaming machine licensees must not allow a person to gamble if they do not appear to understand the consequences of their gambling, the potential for financial loss or if they appear to be intoxicated or under the influence of a drug.

ISSUES AND DISCUSSION

The Code's general requirements about problem gambling place some important responsibilities on licensees in relation to consumer protection. These requirements form part of the basis for the Code of Practice's harm minimisation measures.

While the Commission recognises that venue staff may have a number of duties in addition to providing gambling services, regulatory experience has shown that many venues do not recognise or record problem gambling incidents. It is accepted that some smaller venues may not have many (or perhaps any) incidents recorded, however it is considered that there may be considerable under-reporting in this area.

The Commission's inspection activity has shown that there is a range of problem gambling incident registers in use by licensees containing variable amounts of information. Developing a standardised problem gambling incident register for use in all gambling venues may assist licensees in fulfilling their obligations.

INTER-JURISDICTIONAL COMPARISON

Including the ACT, four Australian jurisdictions require that problem gambling incidents are recorded. It is not mandatory for licensees to record gambling incidents in New South Wales, Tasmania or Western Australia. Queensland does not have a mandatory Code of Practice.

CONSULTATION

Submissions generally supported the increased use of the Problem Gambling Incident Register to be encouraged and questioned whether further training is required. Casino Canberra, Care Inc, Ainslie Football Club, Mission Australia, ClubsACT, ACTCOSS and the Labor Club supported an increase in their use while Tatts Lotteries and BetSafe did not. Casino Canberra stated that the introduction of the ACT online exclusion database could provide an opportunity for the inclusion of a tool for recording incidents. Tatts Lotteries suggested that lottery agents be excluded from using the register due to the 'lower risk' associated with lotteries.

CONCLUSION

The Commission's regulatory experience suggests that there is a large difference in the use of the Problem Gambling Incident Register amongst venues. It is considered an important record of a patron's activities and can assist a licensee make decisions about the person's well-being, including whether to exclude them from gambling at the venue. Incorporating an electronic incident register into the ACT online exclusion database could promote its use and assist licensees in fulfilling their obligations by providing a standard template for licensees to utilise in a readily accessible form. It could also enable the Commission to monitor the use of the register.

All gaming machine licensees, ACTTAB and Casino Canberra would be required to utilise the new online incident register. Training in the use of the new system will form part of the training package for using the new exclusion database.

Consistent with the discussion in Section 7 of this Policy Paper, while lottery activity is low risk it is not 'no risk', therefore it is considered desirable that lottery providers should be required to maintain an incident register like other licensees. Given the business environment lottery providers operate in and the relatively lower risk of incidents it would appear impractical for these providers to utilise the online system and therefore the current 'manual' requirements will remain for lottery providers.

RECOMMENDATION

18. Amend the existing Code requirements under Schedule 1, Section 1.6 to require the mandatory use of an online problem gambling incident register by gaming machine licensees, ACTTAB and Casino Canberra.

4.7 CASH PAYMENT LIMITS

CURRENT LEGISLATIVE REQUIREMENTS¹⁴

Limits on the amount of gambling winnings that may be paid to a gambler in cash are imposed under the Code. Specifically, the Code prohibits the casino from making cash payments of winnings greater than \$20,000 to an individual on any single gaming day. Cash payment limits also apply to other licensees as described in Table 1 below, however these limits relate to a particular event or contingency rather than a daily limit. For example, a race bookmaker is restricted in paying winnings greater than \$20,000 to a punter on a single race or event.

¹⁴ These requirements can be found under Schedule 1, s.1.22 & s.1.23 of the Code of Practice.

Type of Licensee	Maximum Cash Payable
Casino	\$20,000 (per gaming day)
Bookmaker	\$20,000
ACTTAB	\$20,000
Lotteries	\$4,000
Gaming Machine	\$1,200
Housie	\$1,000
Keno	\$1,000

Table 1: Current maximum cash payable by each licensee

ACTTAB's Trackside product is approved under the *Lotteries Act 1964* and its cash payment limit is currently set at \$4,000.

Where the payment limit is reached licensees are required to either pay the remaining balance by cheque or electronic funds transfer (EFT).

ISSUES AND DISCUSSION

Restricting the payment of gambling winnings in cash after a large win provides patrons with a 'cooling off' period before they have the opportunity to gamble their winnings. This pause can assist patrons to avoid gambling more than they intended based on a spur of the moment decision.

When the Code commenced in the ACT in 2002 the limit for gaming machines was \$1,000 which was increased to \$1,200 with the 2004 Code Review. Other cash limits have remained the same except for the casino limit being applied to a gaming day rather than a twelve hour period. Due to inflation cash payment limits in the ACT are, in real terms, around 30% lower now than when introduced.¹⁵

Limits in other jurisdictions vary widely with the Productivity Commission recommending a limit at the lower end of the range (\$300) for gaming machines. While the Gambling and Racing Commission considers it an unreasonable imposition on recreational players to require all gaming machine payments over \$300 to be paid by cheque or EFT, having this option available upon request may assist patrons who are finding limiting their gambling difficult.

¹⁵ Reserve Bank of Australia inflation calculator: <http://www.rba.gov.au/calculator/annualDecimal.html>

Research conducted in 2004 found that in NSW responsible gambling measures relating to paying large wins on gaming machines by cheque were strongly supported by survey respondents.¹⁶ Paying large wins by cheque rather than cash was seen as a responsible gambling initiative.

The 2010 Productivity Commission Report on Gambling recommended that Governments should require venues to pay any gaming machine prize that is above \$300 by cheque or direct credit to the gambler's account by incorporating an internal 'bank' or other feature into all new gaming machines.

INTER-JURISDICTIONAL COMPARISON

All Australian jurisdictions have some provision for paying certain winnings by cheque or EFT. The following jurisdictions have mandatory maximum cash payment limits for winnings from gaming machines and any prizes over this limit must be paid by cheque or EFT:

- New South Wales (\$2,000);
- Northern Territory (\$500);
- Queensland (\$250);
- Tasmania (\$1,000); and
- Victoria (\$1,000).

In South Australia players may request prizes over \$1,000 to be paid by cheque while in Western Australia casino patrons may request any amount of winnings to be paid by cheque.

CONSULTATION

Most submissions supported an increase in cash payment limits. The most common reason given for raising the cash payment limit is to keep the amount in line with the CPI increase or the NSW cash payment limit. ACTCOSS suggested lowering the payment limit for gaming machines to \$300 as recommended by the Productivity Commission.

ACTTAB stated that the cash payment limit applicable to Keno should be increased in line with its Trackside product given that there is no rationale for different cash limits on these two products as the technology and frequency of the games are similar.

BetSafe supported the requirement for gaming machine licensees to advertise that gaming machine payments over \$300 may be paid by cheque or EFT transfer if requested

¹⁶ Hing, N 2004, 'The Efficacy of Responsible Gambling Measures in NSW Clubs: The Gambler's Perspective', *Gambling Research*, vol. 16, no1, pp.39-40

by a patron, while ClubsACT opposed this recommendation on the basis of additional unnecessary red tape.

CONCLUSION

There is considerable conflicting evidence as to what restrictions should be placed on the level of cash payments. While the consensus is that some cash payment restriction is desirable the view on the actual level or threshold for cash payouts are far from consistent. It seems that overall the ACT sits around the middle to high end of cash payout thresholds.

The Commission is conscious of the sensitivity of restricting a person's access to their own cash money.

The current cash payment limits appear to be functionally efficient and there appears to be no justification for an increase other than adjusting in line with CPI. It is agreed that Keno and Trackside are similar products and that there is no rationale for having different cash payment limits. It is therefore proposed that Keno and Trackside should both have the same maximum cash payout set at the same level as lotteries.

This would result in the following new limits:

Type of Licensee	Maximum Cash Payable
Casino	\$25,000 (per gaming day)
Bookmaker	\$25,000
ACTTAB	\$25,000
Lotteries	\$5,000
Keno	\$5,000
Trackside	\$5,000
Gaming Machine	\$1,500
Housie	\$1,250

Table 2: Recommended maximum cash payable by each licensee

In order to enhance the harm minimisation value of restricting access to cash in a gambling venue while not adversely impacting on recreational players, it is also recommended that gaming machine venues be required to pay all winnings payments over \$300 by cheque or EFT transfer if requested by a patron. It would be a requirement that this option be advertised within the venue (under Schedule 1, Section 1.25(3)). Given that licensees are already required to list a range of information for patrons the Commission does not consider this additional recommendation to be a significant requirement for licensees. It is considered to be valuable information for consumers and is therefore warranted. The non-

cash payment would be required to be paid by the licensee as soon as practicable and no later than three days after the win, consistent with current requirements.

RECOMMENDATIONS

19. The cash payment limits for licensees should be adjusted to: Casino (\$25,000), Bookmaker (\$25,000), ACTTAB (\$25,000), Lotteries (\$5,000), Keno (\$5,000), Trackside (\$5,000), Gaming machines (\$1,500) and Housie (\$1,250).
20. All gaming machine winnings payments over \$300 must be paid by cheque or EFT transfer if requested by a patron.
21. Amend the existing Code requirements under Schedule 1, Section 1.25 'Availability of Information' to state that gaming machine licensees are required to advertise that gaming machine payments over \$300 must be paid by cheque or EFT transfer if requested by a patron.

4.8 RESTRICTIONS ON CASHING CHEQUES

CURRENT LEGISLATIVE REQUIREMENTS¹⁷

Under the Code of Practice a gaming machine licensee must not:

- cash a cheque within the gaming area;
- allow a patron to buy back a previously cashed personal cheque;
- cash a patron's personal cheque for more than \$250 on any day unless the patron has made arrangements with the licensee on a previous day; or
- cash any other form of cheque for the patron.

There are also restrictions under the *Casino Control Act 2006* and the *Casino Control Regulation 2006* in relation to how the casino may cash a cheque.

ISSUES AND DISCUSSION

The restrictions on cashing cheques are designed to assist gamblers avoid overspending by reducing access to additional cash sources and in some cases preventing credit betting where funds are not available to meet the cheque payment. However, over the past decade the use of cheques has declined by 60% in Australia.¹⁸

¹⁷ These requirements can be found under Schedule 1, s.1.24 of the Code of Practice, s.112, s.114 & s.115 of the *Casino Control Act 2006* and s.8 of the *Casino Control Regulation 2006*.

¹⁸ Australian Payments Clearing Association, 2012 'The decline of cheques: Building a bridge to the digital economy'

Research conducted in 2004 in NSW examined a number of harm minimisation measures. In that survey limits on cashing cheques in venues were strongly supported by survey respondents.¹⁹

In the ACT, a number of venues have a policy of no longer accepting personal cheques. It is necessary to assess the continued application of the Code's cheque restrictions without creating a mechanism for gaining additional access to cash or credit as a 'spur of the moment' gambling decision.

INTER-JURISDICTIONAL COMPARISON

Australian jurisdictions vary in their approach to cashing cheques in gaming venues. New South Wales places restrictions on the number and value of cheques, requiring a limit of one transaction per day of no more than \$400 and endorsed by the payee to the gaming venue. Tasmania restricts the cashing of winnings cheques on the day of the win and limits cheque transactions to one per day per patron of no more than \$200.

CONSULTATION

Submissions were supportive of maintaining the current restrictions on cashing cheques. Ainslie Football Club, ACTTAB, Tatts Lotteries and the Labor Club stated they have internal policies of not accepting cheques. Casino Canberra stated that accepting cheques is integral to their business, especially when dealing with interstate and overseas customers.

CONCLUSION

The Commission's regulatory experience does not indicate that there is a need for a total prohibition on cashing cheques. The current restrictions appear to be working effectively in allowing some access to cash, while not providing unreasonable limitations on gaming machine and casino licensee's ability to trade. On this basis it seems prudent to maintain the current provisions of the Code. It is noted with a positive endorsement that many gaming venues have adopted a policy of not cashing cheques, both from a risk perspective and from a harm minimisation point of view. This policy is encouraged and is considered 'better practice' by the Commission.

RECOMMENDATION

22. The existing Code requirements in relation to the cashing of cheques should be maintained.

¹⁹ Hing, N 2004, 'The Efficacy of Responsible Gambling Measures in NSW Clubs: The Gambler's Perspective', *Gambling Research*, vol. 16, no1, pp.39-40

4.9 INFORMATION REQUIRED IN GAMBLING VENUES

CURRENT LEGISLATIVE REQUIREMENTS²⁰

The Code of Practice requires that all gaming areas in the ACT display legible signage stating that people under 18 years old and/or anyone intoxicated are prohibited from gambling.

A licensee of a gambling facility must also clearly make available information that tells patrons at the venue about:

- restrictions on cashing cheques (if any exist for the licence category);
- gambling limits (if any exist for the licence category); and
- the chances of winning major prizes at the facility.

A licensee must also provide information in a conspicuous way that tells people where each of the following can be found at the gambling facility:

- a copy of the rules for each kind of gambling offered by the licensee;
- information about exclusion programs from gambling;
- a Gambling Contact Officer for the facility;
- a copy of the Code of Practice; and
- information about gambling counselling services in the ACT.

In addition, gaming machine licensees under the *Gaming Machine Act 2004* are required to display warning notices on all gaming machines and at each gaming area entrance along with a number of harm minimisation obligations.

ISSUES AND DISCUSSION

Static warning notices and information available in gambling venues aim to assist patrons make informed decisions about their gambling. Information signage displayed conspicuously is a low cost way of informing patrons of the services available to assist them.

However, for signage to be effective it must be displayed appropriately. Based on its audit experience the Commission considers that the placement and size of signage under the Code is appropriate at the majority of venues. As there is such a wide variation in the physical size and layout of venues, it is considered impractical to be too prescriptive about size, design and exact location of signage. It is therefore considered that while minimum standards specified in the Code are useful, licensees should be encouraged

²⁰ These requirements can be found under Schedule 1, s.1.25 of the Code of Practice, s.151 of the *Gaming Machine Act 2004* and Disallowable Instrument DI2004-184.

through 'better practice' guidelines to enhance the visibility of their signage within their own venue.

Schedule 1, Section 1.17(3) of the Code requires the licensee of a gambling facility to tell patrons about support services available to gamblers and the ability to enter into a Deed of Exclusion. This provision is more relevant to the requirements outlined under 'Availability of Information' and as such it is proposed that this section be relocated to Schedule 1, Section 1.25.

INTER-JURISDICTIONAL COMPARISON

All Australian jurisdictions have signage requirements for their gambling venues. The ACT signage requirements are consistent with or exceed the minimum standards set in other jurisdictions.

CONSULTATION

All submissions stated that the current information requirements are adequate and that minimum standards such as font size and placement could be clarified to remove uncertainty. Concerns were raised that too much information could be detrimental and may create an 'information overload'.

CONCLUSION

The current information requirements appear to be working effectively. This was supported by the submissions received on the Discussion Paper and draft Policy Paper.

However, to encourage licensees to ensure that their signage is clear and noticeable it is proposed that the Commission's 'better practice' guidelines would be an appropriate mechanism to encourage licensees to focus their attention on this matter.

As outlined under the 'Cash Payment Limits' in Section 4.7 of this Policy Paper, the Commission is recommending that gaming machine venues be required to make payments over \$300 by cheque or EFT transfer if requested by a patron. This would require Schedule 1, Section 1.25(3) to be amended to incorporate this option being advertised to patrons. This has been included in recommendation 21.

As a technical amendment, it is considered appropriate by the Commission that the current requirements under Schedule 1, Section 1.17(3) be relocated to Schedule 1, Section 1.25 to assist licensees in understanding their requirements in providing information to patrons.

RECOMMENDATIONS

23. The existing Code requirements in relation to the availability of information should be maintained.
24. Relocate existing provision under Schedule 1, Section 1.17(3) to Schedule 1, Section 1.25 'Availability of Information'.

4.10 CLOCKS AND LIGHTING

CURRENT LEGISLATIVE REQUIREMENTS²¹

Under the Code of Practice, casino and gaming machine licensees must prominently display the correct time within all gambling areas.

The Code of Practice also requires that venues have sufficient lighting to allow clocks and signage within gambling areas to be easily read by patrons.

ISSUES AND DISCUSSION

Clocks and lighting requirements in gambling venues aim to provide patrons with a safer gambling environment where they can keep track of time. Adequate lighting allows signage to be read and may also assist in the identification of underage or excluded people. There is currently no requirement for gaming areas to have natural lighting or to reach a prescribed minimum light level as there are in some jurisdictions.

Some gamblers report becoming immersed in their gambling, losing track of time and this may contribute to gambling more than they had intended. Clocks may provide a 'reality check' for gamblers and can be installed in venue gambling areas at little cost to the industry and with no negative impact on patrons.²²

Incorporating wall clocks and adequate lighting in venues was among the national responsible gambling principles agreed to by the Ministerial Council on Gambling in July 2009.

INTER-JURISDICTIONAL COMPARISON

All jurisdictions other than Western Australia require clocks to be displayed in gaming areas or on gaming machines.

²¹ These requirements can be found under Schedule 1, s.1.26 & s.1.27 of the Code of Practice and s.152A of the *Gaming Machine Act 2004*.

²² Delfabbro, P, 2008, *Australasian Gambling Review June 2007*, A report prepared for the Independent Gambling Authority of South Australia.

The ACT, Victoria and Tasmania all have lighting requirements.

CONSULTATION

All submissions that addressed this issue stated that the current clock requirements are sufficient. ClubsACT stated that consideration should be given to removing 'clocks' from this requirement given that gaming machines have electronic time displays.

The vast majority of submissions did not support quantifying lighting levels. ACTCOSS was supportive of stipulating minimum lighting levels while Casino Canberra, Ainslie Football Club, BetSafe, ClubsACT and the Labor Club considered the current requirements to be adequate.

CONCLUSION

Experience indicates that the current requirements of the Act are working effectively. This was supported by the majority of submissions. In relation to the ClubsACT view that wall clocks were not necessary, it is considered that even if all gaming machines had clocks a more general coverage is available with the inclusion of wall clocks. On this basis it is recommended that the current requirements remain.

RECOMMENDATION

25. The existing Code requirements in relation to clocks and lighting should be maintained.

4.11 ADVERTISING RESTRICTIONS

CURRENT LEGISLATIVE REQUIREMENTS²³

Under the Code of Practice the licensee of a gambling facility must not publish advertising that:

- encourages anyone to contravene a gaming law;
- shows people under 25 years old gambling;
- encourages people under 18 years old to gamble, or targets them;
- is false or misleading, particularly about the chances of winning or the expected return to a gambler;
- suggests that gambling is a form of financial investment;
- suggests that skill can influence games that are games of chance;

²³ These requirements can be found under Schedule 1, s.1.20, s.1.28, s.1.29 & s.1.31 of the Code of Practice and s.152 of the *Gaming Machine Act 2004*.

- shows or promotes the consumption of alcohol while gambling;
- does not include the name and telephone number of the ACT gambling counselling service; or
- licensees must not send promotional material about gambling to an excluded person.

Furthermore, under the *Gaming Machine Act 2004* gaming machine licensees must ensure that there is no external signage advertising gaming machines or promoting a gambling activity at their venue.

ISSUES AND DISCUSSION

While advertising is a normal mechanism for businesses to promote their services, it has the potential to encourage additional gambling activity which may exacerbate problem gambling in some people. Advertising is regulated to ensure that it is not misleading or deceptive and does not target vulnerable people.

The Code's requirements provide fundamental restrictions on the content of advertisements to ensure that high risk areas, such as targeting those under 18 years of age or associating gambling with the consumption of alcohol, are not the focus. Compliance with these requirements has in general been good, however new forms of advertising online and through social media sites have emerged since the Code was developed.

A number of jurisdictions require advertising to not be offensive in nature or offend prevailing community standards. This is achieved by requiring licensees to comply with the 'Code of Ethics' adopted by the Australian Association of National Advertisers. This is currently not a requirement in the ACT.

INTER-JURISDICTIONAL COMPARISON

Most Australian jurisdictions have restrictions on advertising gaming products with additional requirements often being specified for gaming machine operators.

CONSULTATION

ACTCOSS was supportive of more prescriptive restrictions in relation to advertising to reduce the likelihood of misinterpretation. Tatts Lotteries, Casino Canberra, Ainslie Football Club, BetSafe, ClubsACT, ACTTAB and the Labor Club stated that the current requirements are adequate.

Following the release of the draft Policy Paper, Chief Minister Katy Gallagher MLA received representation from a member of the public requesting that restrictions be placed on clubs

sending promotional material to members where the member chooses not to receive such material. As a consequence, the Chief Minister requested that the Code be amended to allow a patron to request that promotional material not be sent to them.

CONCLUSION

The current provisions of the Code in relation to advertising generally appear to be working effectively and are broad enough to apply to all forms of advertising, including social media sites. This was supported by submissions. The ACT's requirements are generally consistent with other jurisdictions.

As discussed, the Code will be amended to allow a patron to request that promotional material not be sent to them. Once requested, a gambling licensee would be required to comply with such a request until that patron specifically revoked it in writing. This restriction would only apply to personally addressed promotional material sent by email or mail. Given the context of the request it is considered appropriate that this requirement should apply to gaming machine licensees, ACTTAB and Casino Canberra. Due to the timing of when this issue was raised it was not included in the draft Policy Paper circulated for stakeholder comment, however recent discussions with industry through the Gambling Industry Consultative Committee have indicated that this proposal is considered reasonable.

In relation to requiring licensees to comply with the National Advertisers 'Code of Ethics', it is considered that this would add little value to the existing obligations under the Code of Practice and therefore will not be pursued at this stage.

RECOMMENDATIONS

26. The existing Code requirements in relation to advertising should be maintained.
27. Amend the Code to state that a patron may request that no personally addressed promotional material be sent to them by ACTTAB, Casino Canberra or a gaming machine licensee. Once requested, a licensee would be required to comply with such a request until that patron specifically revoked it in writing.

4.12 PROMOTIONS AND INDUCEMENTS

CURRENT LEGISLATIVE REQUIREMENTS²⁴

The ACT has specific restrictions on gambling promotions and inducements. Under the Code of Practice the licensee of a gambling facility must not conduct a promotion that:

²⁴ These requirements can be found under Schedule 1, s.1.30, & s.1.31 of the Code of Practice.

- requires or encourages people to gamble at the facility for a minimum period of time to qualify for rewards;
- includes an offer of free or discounted alcohol; or
- requires or encourages people to gamble a minimum amount to qualify for rewards.²⁵

All gambling promotional material must either include the rules and conditions of the promotion or advice on where that information is available. The rules and conditions of all promotions must be available for inspection at the licensee's facility.

The Code of Practice has further restrictions for promotions and inducements conducted by gaming machine licensees. A gaming machine licensee must not:

- conduct a promotion that encourages people to increase their frequency of betting or the amount of each bet;
- induce people to gamble at the licensee's facility by offering:
 - free or discounted alcohol; or
 - cash or free or discounted gambling credits (unless the offer is made to all patrons in the facility all of the time as part of the facility's usual or regular prize schedule).

ISSUES AND DISCUSSION

Inducements offered to customers are often used to gain new business and maintain customer loyalty. However, there is also a risk that inducements could encourage patrons to gamble more than they intended in order to qualify for a reward. General promotion and marketing of venues which is aimed at increasing overall patronage to use a wide range of the venue's facilities should not be subject to restrictions.

The Code specifically restricts the targeting of promotions for gaming machines to particular times or particular groups so that vulnerable patrons are not encouraged to gamble more than they otherwise would. The Commission was also concerned that the only method of entering some promotions was through playing gaming machines. Such requirements focus patron attention on gambling activity rather than other opportunities in the venue. It is considered that a more balanced approach would be to provide patrons with an opportunity to enter promotions without the need to play gaming

²⁵ This restriction does not apply to the promotion of a casino commission based player scheme, a gaming machine player reward scheme that is advertised only within the gambling facility or directly to members, sports bookmakers, lotteries licensees (as covered under the Code of Practice) as well as any promotion that requires or encourages the single lowest available bet and is not combined with or required to be made in addition to any other bet.

machines, for example, by entering the venue, purchasing a drink or meal or participating in other activities.

Further, the Commission was concerned about gaming machine promotions that require the entrant to be present at the draw in order to qualify for major prizes. These forms of promotions have the potential to be harmful to patrons that may have difficulty controlling their gambling activity, especially if they are required to remain in the venue for extended periods or to return to a venue to be eligible to participate.

In relation to sports bookmaking activity concern has been raised by State and Territory Governments over the practice of offering inducements by sports bookmakers to open online wagering accounts. These inducements have generally consisted of free gambling credits being provided to a customer as a signing on bonus once a range of conditions have been met, such as a minimum amount of funds being deposited and wagered. These forms of inducements have been advertised across a range of mediums and are offered to residents of all jurisdictions where the practice has not been prohibited.

While the Code of Practice cannot restrict operators licensed in other jurisdictions, the Commission considers it appropriate to take the opportunity to ensure that ACT licensees do not offer these forms of inducements. Currently, Schedule 1, Section 1.30(2)(c) provides an exemption for sports bookmakers to conduct a promotion that requires or encourages people to gamble a minimum amount to qualify for rewards. This exemption allows sports bookmakers to offer inducements to people to open an account which is considered no longer appropriate.

INTER-JURISDICTIONAL COMPARISON

The 2010 Productivity Commission Report on Gambling recommended that Governments prohibit venues from offering inducements that are likely to lead to problem gambling, or are likely to exacerbate existing problems. Jurisdictions differ in their restrictions on inducements. In Victoria, the conditions of entry to a trade promotion lottery must not require a person to have played a gaming machine.

Restricting the advertising of 'free bets'²⁶ or gambling credits by online wagering operators was among the national responsible gambling principles agreed to by the Ministerial Council on Gambling in July 2009. New South Wales, Victoria, South Australia and Western Australia have all introduced legislation that prohibits the advertising or offering of an inducement to open a betting account.

²⁶ 'Free bets' are complementary bet/s provided to a customer as a signing on bonus for opening an online wagering account. Bonuses are usually contingent on a range of conditions being met (such as a minimum amount of funds being deposited and wagered).

CONSULTATION

Submissions were divided over whether clarification of the Code's promotions and inducements was necessary with Tatts Lotteries, ACTCOSS, ClubsACT and ACTTAB supporting clarification and Ainslie Football Club, BetSafe and the Labor Club believing that the current provisions are sufficient. The main reason for providing clarification was that it would remove the chance for misinterpretation. Tatts Lotteries suggested that the Code could follow Queensland's voluntary Code of Practice and provide examples of promotions that are (or are not) acceptable.

A small number of submissions questioned whether it should be mandatory that entries to gaming machine promotions be available through alternate methods. ClubsACT, BetSafe and the Labor Club supported making prizes and entries into promotions available to all club members. Ainslie Football Club stated that venues should be able to run promotions targeted towards gaming machine players as they are able to run promotions specifically targeted at food and beverage sales.

ClubsACT, BetSafe and the Labor Club did not support the draft recommendation to amend the Code to state that any promotion conducted by a gaming machine licensee must not require an entrant to be present at the draw in order to qualify for a prize of \$500 or more. Club submissions argued that large prize draws are a well established and integral feature of club entertainment which aims to encourage patrons to attend rather than gamble at a venue. It was also identified by licensees that entrants are advised through the terms and conditions of the requirements of competitions and that draws assist in promoting other features of clubs (food, beverage and entertainment).

CONCLUSION

From a harm minimisation perspective, the Commission considers it appropriate that promotions do not focus solely on gaming. Promotions that offer prizes to gaming machine players have the potential to encourage vulnerable patrons to gamble, when ordinarily they would not, in order to enter the promotion. Such promotions may also encourage patrons to gamble more than they intended to. It is therefore considered reasonable to require any promotion conducted by a gaming machine licensee not to limit or restrict entry to only those club patrons that are playing gaming machines. This would include both public and private lotteries as defined under the *Lotteries Act 1964*.

In the draft Policy Paper, the Commission proposed amending the Code to require that any promotion conducted by a gaming machine licensee must not require an entrant to be present at the draw in order to qualify for a prize of \$500 or more. This restriction would not have included lucky badge draws but would have included all other forms of public and private lotteries.

From a harm minimisation perspective the Commission believes that requiring gamblers to return to a venue to be eligible for the drawing of a prize is less than ideal. It is also considered fair from a consumer protection perspective that individuals should not be required to attend a venue at a specific time to qualify for a draw they already have an eligible entry in. During the consultation process concerns were raised by the club industry that this requirement could have a significant impact on club business with industry stating that large prize draws are a well established and integral feature of club entertainment. The Commission in large part accepted this argument and decided not to recommend this requirement but would continue to monitor any complaints or issues related to these forms of promotions.

In relation to sports bookmaking promotions, consistent with most other Australian jurisdictions the Commission is recommending that the offering of inducements such as 'free bets' or gambling credits to open a bookmaking account be prohibited by ACT sports bookmaking licensees. It is the intention of the Commission to propose that the *Race and Sports Bookmaking Act 2001* be amended at a later date to prohibit anyone from offering an inducement to an ACT resident to open a bookmaking account.

RECOMMENDATIONS

28. Amend the existing Code requirements to state that any promotion where entry is possible by playing gaming machines must include at least one alternative method of entry not requiring gaming participation.
29. Amend Schedule 1, Section 1.30(2)(c) to prohibit an ACT licensed sports bookmaker from offering an inducement to open a bookmaking account.

4.13 PLAYER REWARD SCHEMES

CURRENT LEGISLATIVE REQUIREMENTS²⁷

Player reward schemes, which are a type of promotion or inducement, must not:

- require or encourage people to gamble for a minimum period of time to qualify for rewards;
- include an offer of free or discounted alcohol;
- encourage people to increase their frequency of betting at the facility or the amount of each bet (gaming machine licensees only); or

²⁷ These requirements can be found under Schedule 1, s.1.30 of the Code of Practice.

- offer free, or discounted gambling credit, unless the offer of cash or credits is made available to all patrons of the facility all of the time as part of the facility's usual or regular prize schedule.

ISSUES AND DISCUSSION

Player reward or loyalty schemes are a particular type of promotion or inducement usually available at clubs where patrons are able to earn rewards by utilising a venue's facilities including gaming.

Similar to frequent flyer programs, player reward schemes are designed to encourage people to attend one venue rather than another, but also to use the facilities, including gaming products, more frequently. More attractive prizes strengthen the inducement or incentive to increase gambling activity (and use other facilities).

A player reward scheme is defined under the Code as a scheme in which the player of a gaming machine earns rewards (other than winnings decided by the machine) by playing a machine. Within the industry these schemes are commonly referred to as player loyalty schemes where points are earned for participating in certain activities. These points can be accumulated by patrons and redeemed for rewards or benefits usually from a list of items. The definition is proposed to be clarified.

Similarly, Schedule 1, Section 1.30(4)(a) states that a gaming machine licensee must not conduct a promotion that encourages a person to increase the frequency or the amount of each bet. Greater clarity on the intent of the section is proposed by amending the definition to ensure that it includes the 'offering of an inducement' as well as the promotion. Also the current reference to 'frequency of betting' may be ambiguous so it is proposed to refer to the 'intensity of betting such as the rate of betting' to clarify the intent of this section of the Code.

Since the development of the Code other jurisdictions have moved to restrict player reward schemes as advances in technology have allowed reward schemes to become more integrated into club activities and even to provide for retail products outside the club.

In the Commission's experience the majority of points accumulated under a player reward or loyalty scheme are through the playing of gaming machines. There is a risk that player loyalty programs encourage people to spend more on gaming machines than they had planned rather than just encourage the same spend at a particular venue. The attraction to a player to chase a particular prize or to gamble more as they approach the accumulated point threshold for a prize is a real risk of these schemes.

Similar to general promotions and inducements, the Commission considers it appropriate that prizes from player reward schemes do not focus solely on gaming. As player reward scheme points are often accrued across a range of venue activities, a range of prizes should be available. Provided that a patron has a range of prizes to choose from, the Commission does not consider it necessary to restrict the type of prizes which are available to members.

INTER-JURISDICTIONAL COMPARISON

Most Australian jurisdictions place some restrictions on player reward schemes. In New South Wales cash cannot be offered as a prize and the value of prizes is limited to \$1,000. Tasmania requires that points accumulation must be the same for all members and must not focus exclusively on gambling activities or offer rewards to members of greater than \$10 which can be used for gambling purposes. Victoria requires that loyalty systems allow users to set time and net loss limits and South Australia requires loyalty programs to include an approved pre-commitment program. Player activity statements must be made available to participants in Tasmania, New South Wales and Victoria.

The 2010 Productivity Commission Report on Gambling recommended that Governments should prohibit venues from offering inducements that are likely to lead to problem gambling, or are likely to exacerbate existing problems.

CONSULTATION

The majority of submissions argued for no increased restrictions with Ainslie Football Club, BetSafe, ClubsACT, ACTTAB and the Labor Club stating that reward schemes do not encourage players to spend more but rather encourage customer loyalty to a venue. ACTCOSS stated that it would be counter intuitive to believe that player reward schemes do not encourage players to spend more than they may have originally intended, and therefore restrictions should ensure that patrons are not encouraged to gamble more than what they budgeted.

Submissions were divided over whether the maximum prize offered by a gaming machine licensee under a player reward scheme should be \$1,000. ClubsACT supported this proposal, while BetSafe and the Labor Club did not.

Submissions generally supported reward scheme points being redeemable for a range of prizes other than gambling credits with Care Inc. stating that inducements directly linked to gambling should not be permitted.

Submissions also supported points being redeemable at external businesses.

CONCLUSION

The Commission recommends amending Schedule 1, Section 1.30(3) to update the section by more accurately describing the operation of reward or loyalty schemes.

The risk that player reward or loyalty schemes encourage players to spend more than they planned is real. Clearly this risk is likely to increase problem gambling by encouraging patrons to not only focus their spending at one venue but also to increase their overall level of activity. Limits on prize values may assist to control the level of spend by patrons in chasing prizes.

It is therefore proposed that in similar terms to New South Wales the maximum value of individual prizes available through player reward or loyalty schemes should be \$1,000. This prize limit would prohibit a licensee from allowing a patron to convert their reward scheme points to a single prize which has a value greater than \$1,000. For example, when converting a patron's points for a prize, a licensee would be prohibited from offering a flight worth \$1,200. However there would be no restriction on offering two prizes where each flight was worth \$600 each. In other words, if a single prize consists of several components, then the value of the prize is the sum of the components. Any points available after the redemption of a valid prize would remain active.

This restriction was implemented in NSW based on complaints from individuals who actively gambled more than they planned trying to qualify for a prize. It would appear desirable to avoid a similar situation occurring in the ACT.

The limit would not apply to Casino Canberra as the Commission considers that any limitations on Casino Canberra's Complimentary Program would be an unfair restriction and would significantly disadvantage the casino due to the business environment they operate in compared to their interstate competitors.

Further, the Commission considers it appropriate that prizes from player reward schemes do not focus solely on gaming. As such, it is recommended that player reward scheme points be required to be redeemable for a range of prizes, rather than just gambling credits. The Commission considers a 'gambling credit' to be a voucher, token or similar item that may only be redeemed for gambling purposes. These points could be redeemable at external businesses as well as for a range of goods and services at a venue.

The Commission will continue to closely monitor the use of player reward or loyalty schemes and will propose further restrictions in the future if it is considered appropriate to mitigate the risks. In particular, the Commission is interested in the findings of the Gambling Research Australia study *'The Role of Loyalty Programs in Gambling'* which is due to be finalised in early 2015.

RECOMMENDATIONS

30. Amend the existing Code requirements under Schedule 1, Section 1.30(3) to state: *‘a player reward scheme, includes a player loyalty scheme, where persons accumulate points which can be redeemed for rewards or benefits’.*
31. Amend the existing Code requirements under Schedule 1, Section 1.30(4)(a) to state: *‘conduct a promotion or offer an inducement at the licensee’s facility that encourages people to increase their intensity of betting such as the rate of betting or the amount of each bet’.*
32. The maximum value of an individual or single prize offered by a gaming machine licensee under a player reward scheme should be \$1,000. Where a prize consists of several components, the value of the prize is the sum of the components.
33. Amend the Code to state that player reward scheme points must be redeemable for a range of prizes, rather than just gambling credits.

4.14 SERVICE OF ALCOHOL, DRINK AND FOOD IN GAMBLING AREAS

CURRENT LEGISLATIVE REQUIREMENTS

While the Code requires that an intoxicated person must not be allowed to gamble it does not currently prohibit the service of food or beverages to a person while gambling on a gaming machine or at the casino.

ISSUES AND DISCUSSION

A number of gaming machines in the ACT are currently equipped with drink service functionality which allows patrons to press a button and request drinks to be served to them while they are at a gaming machine. There is currently no restriction on this practice.

There is concern that the service of refreshments, especially alcohol, to patrons while they are playing gaming machines may encourage them to gamble for longer than they intended. It also does not encourage, or provide an opportunity, for a patron to have a break from their gambling activity.

The Commission understands that some licensees have also been providing complimentary tea or coffee to patrons playing gaming machines but do not make the same offer to patrons utilising other club facilities. The Commission considers these forms of promotions target gamblers and have the potential to encourage patrons to continue their gambling activity when they may otherwise not.

Research indicates that the consumption of alcohol while gambling may impair rational decision making which may lead to a person overspending.

“The result showed that relatively small quantities of alcohol [three standard drinks] have a significant effect on the psychological processes that underpin self-control over gambling.”²⁸

Research undertaken by Gambling Research Australia in 2005 reported that gaming machine players had a much higher likelihood of exceeding their spending limits when they were consuming alcohol.²⁹

Prohibiting the service of alcohol to patrons at a gaming machine is part of the national responsible gambling principles agreed to by the Ministerial Council on Gambling in July 2009.

The 2010 Productivity Commission Report on Gambling recommended that governments should prohibit venues from offering inducements that are likely to lead to problem gambling, or are likely to exacerbate existing problems, including offering free alcohol to a patron who is gambling.

There is no suggestion that the purchase of alcohol in a gaming area would be prohibited, provided that the patron had to leave the gaming machine in order to obtain the product.

INTER-JURISDICTIONAL COMPARISON

Service of drinks, including alcoholic beverages in gaming areas is permitted in all Australian jurisdictions. However, in Queensland, South Australia and Tasmania (from 6pm until close) a person must not be served alcohol while playing, seated or standing at a gaming machine.

CONSULTATION

The majority of the submissions (Casino Canberra, Ainslie Football Club, ClubsACT, ACT Rugby Union Club, AHA – ACT, and the Labor Club) supported allowing alcohol, food and non-alcoholic drinks to be served to patrons at a gaming machine or table game. It was argued that allowing service in the gaming area enables licensees to be in a better position to monitor the behaviour of patrons.

Submissions stated that all venue staff are trained in Responsible Service of Gambling and Responsible Service of Alcohol and as such are able to monitor patrons’ consumption of alcohol and gambling practices. BetSafe argued that the consumption of non-alcoholic

²⁸ Kyngdon, A., Dickerson, M. 1999 ‘An Experimental Study of the Effect of prior Alcohol Consumption on a Simulated Gambling Activity’ *Addiction* vol 94 p.697

²⁹ McDonnell-Phillips, 2006 ‘Analysis of Gambler Pre-Commitment Behaviour’, *Gambling Research Australia*.

drinks should be encouraged as patrons will be more likely to choose these drinks and therefore make rational decisions about when to finish their gaming sessions.

Casino Canberra argued that table games are a more interactive form of gambling (with staff and other patrons) than gaming machines and as such the service of alcohol should be allowed at the casino. It was argued that table games have built in processes that give the player opportunities to take breaks (such as shuffling cards and changing dealers) and that surveillance staff are actively monitoring the licensed gaming area. ACT Rugby Union Club stated in their submission that if this restriction was to apply to gaming machines it should also apply to casino table games.

ACTCOSS and Care Inc stated that food and alcohol should not be served to patrons playing gaming machines to encourage breaks in play. It was argued that alcohol decreases inhibitions which may lead to increased problem gambling behaviours. BetSafe supported a prohibition on the service of alcohol, but did not support restricting food and non-alcoholic beverage service.

CONCLUSION

There is a risk that the service of any form of food or drink to a patron playing a gaming machine may encourage them to gamble for longer than intended and does not encourage a break in play from gambling. While submissions from the club industry argued that allowing alcohol service within gaming areas enables staff to monitor the gaming area for problem gambling behaviour, the Commission believes that there are numerous other ways this can be achieved. The Commission believes that there is significant evidence that service of alcohol to a person playing a gaming machine should be prohibited. This is consistent with the nationally agreed responsible gambling principles.

Submissions did not generally support restricting the service of food and non-alcoholic beverages. There is limited research that provides evidence that the service of non-alcoholic beverages and food to patrons exacerbates problem gambling issues. On the basis of the arguments presented the draft recommendation was amended to restrict only the service of alcohol to gaming machine players.

In relation to casino table games, it is widely accepted that this gambling activity is different in nature to playing a gaming machine and therefore the Commission does not propose applying the prohibition within the casino.

The Commission maintains its concern that offering free or discounted snacks or refreshments to patrons playing gaming machines or people solely in the gaming area may target gamblers as opposed to all patrons. Further, these free or discounted products may encourage patrons to gamble or continue to gamble when they might otherwise not and

they may also encourage people to enter the gaming area in order to access these free offers. However, given the industry's views on the potential impact this measure would have on club business and their ability to offer different levels of service, combined with the fact that there is limited research that provides evidence that the availability of these offers exacerbates problem gambling issues, this recommendation will not be pursued.

The Commission will continue to monitor any complaints or issues related to service and free or discounted goods within gaming machine and casino gaming areas.

RECOMMENDATION

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| 34. Amend the Code to prohibit alcohol being served to a person playing, seated or standing at a gaming machine. |
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4.15 RESERVING GAMING MACHINES

CURRENT LEGISLATIVE REQUIREMENTS

Gaming machine licensees are currently not restricted in allowing patrons to reserve gaming machines.

ISSUES AND DISCUSSION

It is common for venues to allow machines to be reserved for a period of time, typically around three minutes, as a service to patrons having a small break from play. Research is divided over whether restrictions should be placed on the ability of patrons to reserve machines in order to assist them keep to their planned spending limits. While reserving a machine provides a player with an opportunity to have a break in play, it may also provide a psychological commitment for the player to return. The typical reserve limit of three minutes also provides a sense of urgency for a player to return to the machine within that timeframe.

National research has identified that a gambler's ability to keep to their spending limit is made more difficult by many features of gaming machines that enhance the 'excitement' of a win or reward.³⁰ However, it also claimed that the ability to reserve a gaming machine to keep others from playing it is also a factor.

In contrast to this research a respondent to a study conducted in Sydney commented that three minutes may not be long enough:

³⁰ Schottler Consulting, 2010 'Factors that influence gambler adherence to pre-commitment decisions', *Gambling Research Australia*.

“Machines should have five minutes reserve instead of three minutes. There is not enough time to go to the toilet, get change or a drink or cash in a jackpot. This puts you under pressure and encourages you to use larger denomination notes in the machine.”³¹

The Auditor-General’s April 2012 Report on *Monitoring and Minimising Harm Caused by Problem Gambling in the ACT* recommended that the Commission encourage licensees to restrict the capacity for a gambler to reserve gaming machines in licensed venues. This recommendation was based on a national research report that focused on the factors that tended to influence a player to continue to gamble.

INTER-JURISDICTIONAL COMPARISON

All Australian jurisdictions allow patrons to reserve gaming machines.

CONSULTATION

Ainslie Football Club, BetSafe, ClubsACT and the Labor Club argued in their submissions that reserving gaming machines allows for breaks in play and should therefore not be restricted. No submission argues for this function to be prohibited.

CONCLUSION

While the research evidence is divided on the benefits or harms of a patron having the ability to reserve a gaming machine, on balance it is the Commission’s view that reserving a gaming machine provides a break in play and should be viewed as a positive harm minimisation measure. This view was supported in the submissions.

On this basis it is not proposed that any restrictions be placed on a patron’s ability to reserve a gaming machine. The length of time that a machine may be reserved is considered to be a matter for a licensee to decide.

RECOMMENDATION

35. No restriction should be placed in the Code on a patron’s ability to reserve a gaming machine.

³¹ Hing, N, 2003, ‘An assessment of member awareness, perceived adequacy and perceived effectiveness of responsible gambling strategies in Sydney clubs’ Centre for Gambling Education and Research, Southern Cross University, Lismore, NSW.

4.16 PARTICIPATION IN ‘BETTER PRACTICE’ ASSESSMENT

CURRENT LEGISLATIVE REQUIREMENTS

The current legislative requirements under the Code of Practice are aimed at compliance with minimum standards and do not provide guidance or encouragement for licensees to achieve a higher standard than that specified. There is currently no ‘better practice’ participation requirement.

ISSUES AND DISCUSSION

The Code of Practice provides a benchmark for various gambling licensees to follow to ensure that patrons using ACT gambling products have a minimum set of harm minimisation requirements protecting their interests. Given the variety of gambling products and the wide range of licensees providing these products this is considered a reasonable and practical method of achieving set standards.

However, this approach does not encourage or reward extra effort by those licensees that may strive to achieve ‘better practice’ or above minimum standards. In order to address this issue the Commission is developing a ‘Better Practice Guide’ that gaming machine licensees will be provided with and ultimately it is proposed to measure them against. Over time, the Guidelines will be adopted for use with other licensees.

This approach is consistent with recommendations of the Auditor-General in their report on *Monitoring and Minimising Harm Caused by Problem Gambling in the ACT* that suggested the Commission encourage licensees to adopt ‘better practice’ and to acknowledge those that do. While the adoption of the ‘better practice’ options is a matter for each licensee, in order to determine the effectiveness of the approach it is considered appropriate that all licensees should participate in the assessment process.

INTER-JURISDICTIONAL COMPARISON

Queensland, which does not have a mandatory Code of Practice, is the only other jurisdiction to use a ‘better practice’ approach to encourage licensees to improve their harm minimisation methods.

CONSULTATION

Participation in the ‘better practice’ assessment was not canvassed as part of the Discussion Paper released in October 2012 as it was still under development at the time.

Industry submissions to the draft Policy Paper strongly opposed mandatory participation in ‘better practice’ assessment. Submissions requested that comprehensive consultation

occur with the gaming machine industry on the items to be included in the 'Better Practice Guide' prior to its implementation.

CONCLUSION

Recognising and encouraging extra effort by licensees to achieve 'better practice' in gambling harm minimisation activities should be encouraged and rewarded. While the Code's minimum standards are mandatory, the 'better practice' options would not be. Each licensee could decide their level of adoption of the identified menu items or to develop their own innovative practices.

The Commission considers that it would be valuable to the community to have information available on the level of extra effort that a particular venue places on harm minimisation strategies. This would assist patrons make informed decisions on where they choose to gamble.

The Commission agrees that detailed consultation is appropriate to ensure that the 'Better Practice Guide' contains the most up to date harm minimisation measures and practices.

On this basis, the Commission's earlier proposal that participation in the 'better practice' assessment process be mandatory for gaming machine licensees will not be pursued at this stage. It is the intention of the Commission that a 'Better Practice Guide' be developed following input from industry stakeholders including the development of an appropriate assessment and reporting mechanism of the effectiveness of the proposal.

RECOMMENDATION

36. The development of the 'Better Practice Guide' for gaming machine licensees should be undertaken with consultation with the industry and include an appropriate assessment and reporting mechanism.