



RESPONSE TO PRODUCTIVITY COMMISSION DRAFT REPORT ON GAMBLING

Submission by UnitingCare Australia

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Contact:

Susan Helyar acting for

**Lin Hatfield Dodds
National Director
UnitingCare Australia**

02 6249 6717

Introduction

In this submission UnitingCare Australia represents the UnitingCare services that provide specialised problem gambling services across Australia, and work closely with people affected by problem gambling in urban, regional, rural and remote communities in programs that deliver emergency relief, financial counselling, prisoner support, mental health, relationship, youth, family support and homelessness services.

The UnitingCare network of services across Australia commends the Productivity Commission on the draft report and believes that implementation of the recommendations would lead to a significant reduction in gambling harm with associated substantial individual, family and community benefit across Australia. UnitingCare Australia supports the focus of the draft report on:

- Strengthening services for problem gamblers, self-help tools, pre-commitment and exclusion systems;
- Strengthening gaming machine standards, specifically to ensure that they are a safe product for gambling consumers, and making these consistent across jurisdictions;
- Introducing a shutdown period for gaming machines in all hotels and clubs that starts earlier and is of longer duration; and
- Placing greater emphasis on education and harm reduction campaigns that highlight potential future losses and the likelihood of developing a gambling problem while using the product, make the community aware of behaviours indicative of problem gambling and encourage earlier help seeking.

We also believe that the Commission's approach of focusing on specific policy measures that can significantly reduce gambling harm is the appropriate focus for the final report.

There is also very strong support from the UnitingCare network for the approach that can be summarised as taking a consumer protection approach to the gaming industry, in general, and then overlaying a 'public health framework' as the approach for specific measures to prevent and reduce impacts of gambling harm.

UnitingCare Australia also wants to note our general agreement with the positions stated by the Victorian InterChurch Gambling Taskforce that is chaired by Dr Mark Zirnsak the Director of Justice and International Mission in the Uniting Church Synod of Victoria and Tasmania.

This submission addresses a majority of the questions posed for consideration in the Commission's draft report.

Chapter 5

The Commission seeks feedback on the need for a national accreditation system for problem gambling service providers.

UnitingCare agencies support the development of quality improvement programs that improve the services that meet the needs of people accessing support to address the impacts of problem gambling and to cease problem gambling. Any quality improvement system needs to be based on ensuring the adequacy, accessibility, quality and safety of services.

A critical baseline for quality improvement is service funding bodies clearly articulating the outcomes required from effective gambling support services, based on the evidence of good practice in responding to people dealing with the impacts of problem gambling and seeking to cease problem gambling. Funding agreements need to include appropriate and robust performance indicators of improved quality of service delivery. There should also be adequate resourcing for operation and evaluation of services at a local level.

A transparent measure of service funding levels, and the compliance of funding bodies with provision of adequate funding to meet optimal service provision levels, would be an essential component of any quality improvement process.

We also believe that a strong relationship that allows funders and service providers to use a solution focused approach to developing improved quality of service outcomes provides the best environment to achieve high standard services. This should be complemented by funding for investment in staff training and research that improves the capacity of staff to more effectively respond to the range of issues faced in working with people dealing with the impacts of problem gambling and seeking to cease problem gambling.

FaHCSIA has integrated ongoing action-research-based evaluation processes into service delivery via the 'Reconnect' program. (http://www.fahcsia.gov.au/sa/housing/pubs/homelessyouth/reconnect_action_research_kit/Pages/default.aspx). This process builds action research activities into its funding requirements. Adoption of a similar approach could ensure that the ongoing design of services can take into account evidence derived from delivery of services, including feedback from service users.

These measures combined would ensure and support the development of quality services.

A key concern regarding a national accreditation process is that accreditation programs need to be linked to a specific set of Standards. When considering the diversity of client groups and site locations for problem gambling support service delivery, there is the very real risk that a standards set would be based on a one size fits all approach and end up with a minimum set of service standards as opposed to encouraging and supporting services that provide an optimal response to people accessing services and local conditions and work towards a best practise approach.

One criticism about accreditation is that a service's capacity to meet accreditation requirements is dependent on funding levels and other industry factors (e.g. skills gaps and shortages in the workforce; availability of referral points for related support needs). These factors can encourage the adoption of minimum standards, rather than promoting optimal quality outcomes, as noted above.

Compliance with an accreditation process can tie up significant resources. Steps should be taken to ensure that agencies do not have to duplicate processes that are currently undertaken with accreditation for other funded programs. A multiplicity of service and program specific reporting and data collection processes already create significant and unnecessary administrative burden for organisations providing a number of community services. If an accreditation process for gambling support services is considered appropriate, consideration should be given to recognition of existing quality improvement or management processes that would meet the service quality improvement requirements of problem gambling support services rather than creating a separate and new process.

Use of a public health approach in responding to preventing and addressing harm associated with gambling

We understand the Commission to be saying, in Chapter 5, that a public health approach should be applied to gambling. This approach is strongly supported by UnitingCare Australia. Our support is based on feedback from a number of agencies who suggest that the negative impacts of problem gambling could be reduced with additional resources for prevention and early intervention prior to people developing a significant problem with gambling.

UnitingCare Australia understands adoption of a public health approach to gambling activity would involve addressing harm from gambling across a spectrum of interventions including:

- Collecting, monitoring and analysing data about gambling harms and evidence of what works to reduce individual, family and community harm;
- Developing policy, legislation and regulation, setting priorities for action and co-ordinating responses across systems;
- Developing interventions that prevent and protect from harms as well as acting to address harms when they occur;
- Building resilience in individuals as well as communities through pro-active rather than reactive measures; and
- Building the necessary infrastructure and workforce to support research and evaluation, effective prevention of and protection from harm, service delivery, policy development, and legislative and regulatory reform.

Widely respected academics Korn and Shaffer wrote:

“Unlike narrower clinical models of gambling, a public health perspective addresses all levels of prevention as well as treatment and rehabilitation

issues. It promotes the welfare of individuals by fostering health, strong and safe families, communities and workplaces. It views the individual within a social milieu and explores the influences of culture, family, and community values on behaviour. It looks not only at the behaviour of individuals but an organisational and political behaviour...

A public-health advantage point encourages the application of a conceptual continuum to the range of risk, resiliency and protective factors that can influence the development and maintenance of gambling related problems. A public health perspective also offers an integrated dynamic approach that emphasises a ‘systems view’ rather than a primary focus solely on individuals or isolated events” (pg 306.)¹

The Victorian Government’s ‘Health Promotion Resource Kit for Problem Gambling’ (Draft) (2009) uses a public health approach to underpin a detailed framework for action to reduce and address gambling harms. It’s opening sentence states: “The Health Promotion Resource Kit for Problem Gambling forms an important part of a broader Victorian Government strategy to adopt a public health perspective on problem gambling” (p. 3).

We note that the New Zealand government has applied a public health approach to gambling and locates the gambling portfolio within the Health Ministry.

UnitingCare Australia supports promotion, by the Commission, of the use of a public health approach to gambling and encourages the Commission to overtly use the term in it’s final report. A Public Health approach is particularly useful to focus on building resilience in individuals and families, and enhancing the capacity of industry and the community to recognise and reduce risks associated with gambling.

Chapter 6

Given the potential for growth in online, mobile phone and television-based quizzes, competitions and auctions — particularly with convergence of online and broadcasting technologies — there are sound reasons for increased regulatory oversight of such gambling. However, it is not clear who should have responsibility. The Commission seeks views on this matter.

The current environment provides for a mix of Federal and State regulation which is inadequate.

The Australian Communications and Media Authority (ACMA) has the responsibility for telecommunications and television based media but has not focused its attention on gambling products accessible via relevant media, possibly because it has not recognised the potential for harm in these products. ACMA’s approach seems to be to foster industry self-regulation via codes of practice, and to wait to receive complaints.

¹ Korn, D and Shaffer, H (1999). Gambling and the health of the public; .being a public health perspective. General of gambling studies, 15:4 289-365

A complaint-based approach will never be appropriate for issues relating to problem gambling, because problem gambling behaviour is often accompanied by self-focused, secretive and impatient behaviour. Making a public complaint to a slow-moving public regulator without the incentive of financial compensation is very unlikely to be an effective consumer protection mechanism for problem gamblers. Later in this submission we propose the establishment of an Ombudsman for gambling, this office would be ideally placed to establish standards, oversee regulation of gambling activity via television and other communications media and to operate a proactive complaints and investigation system.

State government agencies have a limited role in providing permits for trade promotions and for providing redress through consumer tribunals. They are not effective because of the cross-jurisdictional issues – these gambling activities are issued from one State or Territory but are available to residents of all States and Territories.

The competitions referred to in the report should be recognised as a form of gambling. In 1999, the Commission adopted the following definition of gambling: “staking money on uncertain events driven by chance” (p 6, Productivity Commission 1999). In 1999, the Commission focussed predominantly on the traditional gambling forms – gaming, wagering and lotteries, stating ‘minor’ gambling activities (art unions, raffles) have been taken into account only where most relevant, as have informal and illegal gambling. We do not support the Commission taking the same view in 2009. Competitions in their various forms are a rapidly growing gambling market which is not sufficiently monitored by government. This form of gambling has tremendous appeal to young people, as it is increasingly marketed through electronic media. Because it is not recognised to be a form of gambling, any negative impacts from it remain virtually invisible.

Examples of competitions:

Quarter Million Dollar Quiz

Promoter: Genis Group, 112 Pacific Hwy, North Sydney NSW 2060

See <http://lp.quartermillionquz.com>

Price \$10 sign-up plus \$10 content delivery, maximum 1 content delivery per week.

Maximum prize value is \$253,650. No age restrictions.

Zemgo Cash Ladder Win \$18,000

Powered by RD Media Europe BV but advertised on Australian websites

Price \$2.50 sign-up plus \$2.50 each time you send a text message. Conditions state: “by sending the second confirm text you acknowledge and confirm that you agree to the terms & conditions, you are a resident of Australia, 18 years or older and authorized account holder and/or that you have the consent of the accountholder.”

Features of some competitions are that you can enter as many times as you like and that once you have signed up you continue to receive invitations to continue again and again, and that payment is not required until you receive your phone bill. Other competitions make a recurring charge to the consumer’s credit card to participate in a daily or weekly draw.

A number of these competitions include provisions in the fine print conditions that participants must be 18 years or older to participate, and may have a statement to the effect that “if you click here you are representing that you are 18 years or older and we will rely on that.”

These competitions are frequently advertised on television. The **Childrens Television Standards 2009** issued by ACMA states:

“CTS 34 Competitions

If competitions for children are referred to in programs or advertisements:

- (a) a summary of the basic rules must be stated; and*
- (b) any statement about the chance of winning must be clear, fair and accurate.”*

The industry body Communications Alliance Ltd has produced an Industry Code Mobile Premium Services C637:2009 which states:

“31.1.16 Advertising to children: A Content Supplier must:

- (a) not place a Mobile Premium Services advertisement in any publication, show, website, location or any other presentation (in any medium or format) which is specifically and primarily targeted at persons below the age of 15;*
- (b) if the placement, context and content of a Mobile Premium Services advertisement is reasonably likely to attract or encourage a significant number of Minors to use that Mobile Premium Service, including a warning to the effect “If you are under 18 you must ask the account holder before using this service” in the advertisement.”*

It is possible to make a complaint to ACMA about competitions and quizzes and other similar forms of gambling, but it appears that few consumers know of the existence of this body, or bother to make complaints to them, preferring the Telecommunications Industry Ombudsman.

In 2009 the Telecommunications Industry Ombudsman reported receiving 15,653 complaints, covering 28,809 issues relating to premium mobile phone services. More than half of the complaints related to usage charges. It is likely that many of these complaints related to competitions and quizzes, where consumers pay an inflated call charge of \$0.55 or more to enter the competition or quiz for the chance of winning a prize.

What is required to more effectively protect consumers participating in these competitions is a Federal government agency that understands consumer protection issues that relate to these forms of gambling, and takes a proactive approach in commissioning research and proactively promoting and monitoring consumer protection measures.

UnitingCare suggests the Australian Competition Consumer Commission is a suitable agency to take on this role as it has sufficient capacity, has a good record of taking proactive approaches, and has the ability to conduct research and formulate appropriate consumer protection measures.

Chapter 7

The Commission seeks feedback on the appropriate detailed aspects of the design of a pre-commitment systems meeting the broad criteria in recommendation 7.4, including:

- the viability of using one-off small denomination cash cards for occasional gamblers to use on machines, with only minimal identification requirements*
- the capacity to configure machines to play in a low-intensity 'safe mode' if no pre-commitment method is being used*
- any requirements that might apply to players who opt out of pre-commitment*
- measures to avoid identity fraud*
- the appropriate transition to a pre-commitment system and the capacity of some jurisdictions to provide systems prior to 2016.*

UnitingCare agencies are strongly supportive of the report's recommendations for a universal pre-commitment scheme to be in place by 2016, and regard this as a priority recommendation.

We also understand that this recommendation applies to all Electronic Gaming Machines (EGM'S) s in Australia, whether they are located in a Hotel, Licensed Club or Casino.

We are convinced by research that shows that the greater the time gap between a customer's decision to pre-commit to a spending level and the actual expenditure, the greater the likelihood that the customer will stick to their pre-determined spending limit. This is particularly important for a gambling product that is highly risky for some customers and has components that encourage continued spending once spending has commenced. At the same time pre-commitment cannot be relied upon alone to minimise or prevent excessive gambling and must form part of a suite of measures including EGM safety standards (see above).

Pre-commitment for gambling, particularly via EGM's, is a measure consistent with a public health approach to responding to the risks of harms associated with gambling. Pre-commitment measures have limited impact on participation in non-harmful recreational gambling, and have been shown to reduce the transition from recreational gambling to problem gambling, and to assist people who have experienced problem gambling to reduce their losses.

The draft report outlines a range of options that could be regarded as elements of a pre-commitment scheme. Five major variables are identified in the report:

1. Reach
2. Compulsion
3. Consequences of exceeding limits
4. Controls

5. Information and disclosure

The following material summarises the preferred approach to pre-commitment from UnitingCare agencies, against these five variables.

1. Reach

We understand that many gamblers use a number of venues (more than 10 over a year) and because gamblers can move between states, a strong preference is for a single national pre-commitment program that applies to all poker machine gambling venues. This does not necessarily mean a single system or a single operator, though there are merits in a single, regulated national operator. It is essential however, that the pre-commitment system applies to all venues and that any provider of pre-commitment delivers a 'core component' that is standard with all operating systems and is compatible with all other operating systems so that the system appears 'seamless' to any gambler, any where in Australia.

This approach does not discriminate, as all gamblers are equal in that they must have a pre-commitment device to play. Similarly all venues are required to provide the same system and so face the same setup and compliance costs.

'Universal' means a national approach is also the most cost-effective across the country and most likely to deliver the best outcomes in reducing harm due to opportunities for gamblers to 'game' between venues, jurisdictions and technologies.

An advantage of a national pre-commitment system is that it minimises the need for exemptions, e.g. 'one-off' small denomination cash cards for occasional gamblers to use. With a single national system or operating protocol, the only group of customers who may legitimately want a 'one off' gambling option are visitors from overseas who could have access to a one off/short period cash card upon presentation of their passport.

Should a national system be difficult to implement initially then the first step should be development of consistent state and territory jurisdiction based pre-commitment systems.

2. Compulsion

The scheme needs to be compulsory in all venues and all players must utilise a pre-commitment device to play.

There should also be a small number of mandatory limits. UnitingCare Australia suggests two mandatory limits: a spend per session limit and a mandatory break in play limit. Gamblers should also have the option of setting other limits, as we understand that there is a range of technologies already available that can offer a large number of pre-commitment options.

The mandatory pre-commitment options should be set to a modest level and based on existing session data. The Australian Institute for Primary Care (AIPC) report on EGM technology for the Gambling Research Panel, Victorian Government (2008) found that problem gamblers' average spending per visit is \$70.00 while non problem gamblers is \$35.00 (p.17). The AIPC report also highlighted that it is the

open ended nature of EGM gambling that is hazardous (pp 18, 19). Compulsory limits on what can be spent or lost would assist with addressing this critical risk factor.

We believe that pre-commitment should be mandatory with a small number of commitment options. This suggestion is based on our understanding of research and direct feedback from problem gamblers that pre-commitment is an effective measure for reducing gambling losses and harm but there is a low probability of gambling patrons using pre-commitment, unless required to. If pre-commitment measures are opt-in, venues are unlikely to promote pre-commitment. The small number of mandatory pre-commitment options will minimise player frustration and enable a focus on the limits that will be of greatest interest to the largest number of gamblers.

Regarding limit setting by gamblers; expenditure/loss limits need to be set at low and modest levels, for example, \$35 spend session limit, and the system needs to operate as an 'opt out' system, to maximise its effectiveness.

UnitingCare is of the view that any EGM should require the pre-commitment device to be activated for play to commence.

We suggest that evaluation of the universal pre-commitment program in EGM venues to be implemented by 2016 should be completed by 2018. Following this evaluation and amendment as necessary, an extension of the pre-commitment program should be applied to all other forms of gambling by 2020, at the latest.

Notwithstanding our opposition to liberalisation of on line and web based gambling, pre-commitment should be mandatory for any online gambling and a pre-commitment mechanism in place before any further online gambling options are considered. Existing on-line wagering should be required to introduce pre-commitment as a matter of urgency.

3. Consequences of Exceeding Limits

The most important response to pre-determined loss and/or expenditure limits being exceeded is a face-to-face human interaction with the gambler from a venue employee. This is not to provide counselling but to initiate a conversation with the gambler to ensure that they are aware that limit has been exceeded. It also provides the venue employee with the opportunity to offer a referral to gambling or other help services, if they deem it appropriate. We note that the Sky City Casino's Host Responsibility Coordinator (HRC) Program has been in place for a number of years and includes direct customer engagement by HRC staff at any sign of a potential problem. The approach has been well-received by patrons.

Once a limit has been exceeded no effort plays could remain possible.

4. Controls

All players should receive regular, paper-based, player activity statements giving clear information about amount spent (net gambling revenue) and limits exceeded,

as well as phone numbers for gaming Helplines. Individual players should also be able to access their activity and spend statements online.

It could also be useful for all venues with EGMs to keep a register of promotions – recording data such as who was sent what type of promotional material on what date. This could be a good record to examine any possible breaches of codes of conduct and/or regulations.

We note that some trials of pre-commitment schemes are using a loyalty programming platform. This could partially or fully negate a reduction in gambling activity through pre-commitment, by encouraging people to spend more on gambling in order to generate more loyalty rewards.

Should the Commission determine that pre-commitment, based on a loyalty platform is acceptable, we suggest the following minimum conditions:

- The pre-commitment program should take precedence over the loyalty aspect of the card / device.
- Adoption of a clear protocol for the loyalty element of the system. This could specify that no loyalty promotion or inducements to gamble could be offered to a gambler who had exceeded a limit, say in the last 12 months, and/or who was excluded from a venue and/or had requested that no promotional material or inducements were received.

5. Information and Disclosure

An independent body will need to be identified or created to implement a universal pre-commitment program and then to monitor compliance and to enforce all elements of the system.

Data from a pre-commitment system should be owned by the independent body responsible for monitoring pre-commitment implementation and reviewed by a stakeholder panel that includes consumer, service and industry members. Aggregated data should also be regularly made publicly available, for example, on a web site, so that the data can be utilised by all interested parties.

We also understand that there are indications in the current research that some patterns of play can be a highly effective predictor of a gambler's risk of problem gambling. The sort of data that would be available through a pre-commitment program should be used for further research to determine how best to use pattern of play data to inform development of measures to reduce problem gambling.

For example, pre-commitment technology may be useful in the future to learn more about high risk patterns of play that would prompt discussion with the gambler by venue staff.

Once the pre-commitment program has been implemented for poker machine play, the scheme should be evaluated within two years to determine effectiveness at reducing gambling harm. Once the scheme has been reviewed and any fine tuning

adjustments made, it should then be applied to all other forms of gambling, wagering, lotteries and casinos (other than EGM's which will be covered by 2016).

We also note that some trials of pre-commitment schemes are utilising existing loyalty platforms, and should the final pre-commitment model utilised all have the capacity to involve loyalty components, the protocol will need to be developed to ensure that the objectives of loyalty programs, mainly increases in spending, are subservient to the priority objective of pre-commitment, namely reducing harm.

Chapter 8

The Commission invites participants to comment on penalties or disciplines that gambling regulators could impose on venues for breaches of mandatory harm minimisation measures.

The Commission seeks views on whether a new statutory cause of action should be established and what criteria would be appropriate.

UnitingCare Australia strongly supports statutory provisions to enable gamblers to seek redress through the courts for egregious behaviour by venues.

Gambling is a dangerous product for a significant proportion of consumers. The various gambling harms and their costs to the community were considered in detail in the Commission's first report.

It is important that gambling be subject to strict controls that minimise the harm to all users and especially people at risk of problem gambling. To achieve this goal there must necessarily be a reduction of gambling income to some sectors of the gambling industry. Sections of the hospitality industry have become far too reliant on gambling income. This has resulted in intensive lobbying by the gambling industry about unsubstantiated concerns in response to the Commission's modest harm minimisation proposals.

As with other potentially harmful products, a multifaceted response will allow for a better outcome than a single approach. Government legislators have a duty to protect the vulnerable in society and a social obligation to create effective regulation of the gambling industry with the goal of minimising harm. Government regulators must be adequately resourced and motivated to ensure compliance with the harm minimisation laws. Regulators must be proactive in carrying out their responsibilities, seeking out areas of inaction and continually pushing the gambling industry to lift its level of consumer protection. Regulators should not wait passively for consumer complaints.

Gambling consumers are often struggling with personal issues and lacking in motivation to report regulatory failures to enforcement agencies. Regrettably, a glance at the annual reports of most government regulators reveals a complaint-driven mentality and a low level of proactive enforcement activity. This practice is contrary to evidence from other industries in which regulators are most effective when they commission regular independent compliance audits of relevant providers.

There is a clear need for both government regulation and enforcement as well as legal redress e.g. suing for damages and compensation. Governments need to look at both prohibition on inducements and improving staff training and actions related to “duty of care” in the gambling context.

UnitingCare Australia believes a reversal of the onus of proof is needed – the gambling industry needs to prove the safety of its products rather than community/government being required to prove that a product is unsafe. Consumers, for example, are not required to prove that electrical goods are safe, safety standards are set and compliance enforced – a ‘buyer beware’ attitude is considered by the community and the Government to be unreasonable in this situation as it is with gambling, and any other consumer good or service.

Consumer Redress and the Law

The Commission will be familiar with the recent decision of Judge Harper in the case of *Kakavas v Crown Melbourne Limited* [2009] VSC 559. The decision reinforces the view of the Commission that a statutory cause of action is required. In *Kakavas*, Judge Harper found that Crown was aware that Kakavas was a problem gambler, had failed to recognise the significance of the interstate exclusion order and provided a surprising range of inducements to gamble, including the provision of large amounts of ‘lucky money’. Notwithstanding all this evidence of illegality and inducements, Judge Harper considered that Kakavas was able to exercise control and Crown did not unconscientiously exploit his gambling addiction.

Clearly there is a reluctance in the judiciary to provide redress for problem gamblers. At paragraph 432, the judge says *“It is generally difficult, and often inappropriately paternalistic, for an outsider – and this includes a court – to make a judgment about what is in another’s best interests. Gambling is a case in point.”*

However, there is also a reluctance on the part of State Governments to provide a statutory scheme that will provide an adequate level of protection. In the case of *Kakavas* it appears that no action was taken by the Victorian regulator in relation to the breach of the Casino Control Act. Crown was fined \$15,000 in relation to the irregularities in advancing chips, but this was in the context of *Kakavas* losing millions of dollars.

A statutory cause of action should seek to incorporate a range of positive duties on the part of gambling providers and a variety of penalties and remedies available to both government regulators and gambling consumers.

The starting point is to recognise that gambling is a legal but potentially dangerous product. Comparisons can be drawn with other products such as alcohol, tobacco and medicines. Gambling is also a financial product, and there are some aspects of consumer credit legislation that may be adopted.

At present, responsible gambling measures are imposed by governments in a piecemeal fashion, typically in response to public demands that the government “do something” about problem gambling. Enforcement of the existing regulations tends to be focused on minor infringements and the penalties imposed are so small as to make no significant impact on the gambling venues’ bottom line.

Government regulators receive few complaints from consumers and are often slow to investigate and prosecute. Problem gamblers don't make good court witnesses. The result is that the few successful prosecutions are for straightforward and easily provable breaches of the complex gambling legislation which may have little impact on improving the general welfare of gambling consumers.

Much of the judgment in the Kakavas case relates to the identification of the plaintiff as a problem gambler. The identification of problem gamblers is a difficult and uncertain process. The research by Delfabbro, Osborn, Nevile, Skelt and McMillen *Identifying Problem Gamblers in Gambling Venues* highlights the difficulties and unreliability of identification. However, some gambling industry operators do make an effort to identify potential problem gamblers and offer them assistance.

It seems logical to require gambling venues to make reasonable efforts to identify problem gamblers and to take steps to minimise the harm caused by gambling. The current situation is that many gambling venues avoid taking any steps to identify problem gamblers for fear that they will lose their best customers or risk being sued if they don't prevent the problem gambler from gambling. It would be in the interests of gambling consumers, the community and the gambling industry itself if the situation were reversed and gambling providers were encouraged to have a closer relationship with their customers and they were required to exercise more proactive duty of care to protect the customer's best interests.

It is simplistic to argue that gambling venues should ban everyone they believe to be a problem gambler. It would be like requiring hotels to ban every alcoholic or requiring tobacconists to ban every chain smoker. However, the current situation is that problem gamblers are often the same people considered by gambling venues to be their best customers. Problem gamblers spend lots of money gambling and gambling venues compete for their business by offering inducements.

The following material proposes a 5 stage process that allocates reasonable levels of responsibility within the gambling provider – gambling consumer relationship.

Stage 1 – identification of potential problem gamblers

An effective duty of care regime would begin by requiring gambling venues to take steps to identify potential problem gamblers using the available indicators. Note that gambling providers are now required to comply with the Know Your Customer requirements of the Anti-Money Laundering and Counter-Terrorism Financing Act. This means that gambling providers are collecting personal data about their customers on an ongoing basis. It would not be difficult to combine this personal data with observations of customer behaviour to produce a reliable list of people at risk of problem gambling. Typically this list would include many of those who are the gambling venues 'best' customers.

Stage 2 – Enhanced consumer protection

Once the gambling providers have identified patrons who are potential problem gamblers, they should be required to provide those patrons with an enhanced level of consumer protection. This should incorporate the provision of information about help available (e.g. self-exclusion and counselling), pre-commitment and other

measures designed to help prevent the potential problem gambler from getting into trouble.

In addition, regulation should specify precisely the range of inducements that can be made available to potential problem gamblers. The risk from the gambling venues point of view is that they will lose their best customers to their competitors who may not be so conscientious in identifying potential problem gamblers. Therefore legislation should make it clear what is allowed. UnitingCare Australia's recommendations regarding this issue are contained in this and our previous submission to the Commission.

Stage 3 – Monitoring of potential problem gamblers

The gambling provider will then have a statutory duty to monitor the gambling activities of those persons identified as potential problem gamblers. Typically this list will be the same as those persons who are considered "good customers" and therefore will not require much extra work on the part of the gambling venue.

Stage 4 – Provision of help to problem gamblers

It may be assumed that most potential problem gamblers will never reach a crisis point where they need intervention by the gambling venue. Staff in gambling venues will need training in offering help to problem gamblers if they reach a point of crisis. Some gambling providers already provide such staff training (e.g. see video produced by Star City/Jupiter's Casino presented at NAGS 2009). In particular staff will offer self-exclusion, counselling or perhaps pre-commitment if available. However, staff will be required to monitor gambling behaviour and where a problem gambler persists with gambling and appears to be suffering harm, then the gambling venue will have a statutory obligation to ban the problem gambler.

Stage 5 – Legal consequences

The proposed statutory scheme will allow for a problem gambler to seek compensation for their losses from a gambling venue where the venue has failed to follow the statutory regime and has unreasonably allowed the problem gambler to continue to suffer financial loss.

A claim for compensation should be based upon the fact that a person is a problem gambler, that the gambling venue was aware that the person was a problem gambler (or ought to have been aware) and that the gambling venue failed to take the statutorily mandated steps to respond effectively to reduce problem gambling by that individual.

However, the gambling venue will need to articulate a complete defence to a claim for compensation through which it can demonstrate that it has complied with the statutory requirements (known as a due diligence defence). This defence will protect gambling venues from claims made by problem gamblers where the problem gambler has successfully concealed the existence of their gambling problem, or has refused all forms of assistance.

Compliance and Penalties for Egregious Behaviour

Consumers of gambling products should not be enabled and supported to exercise their right to claim compensation from the gambling industry, when the level of consumer protection has been inadequate. Problem gamblers are a vulnerable group and are in need of a level of consumer protection that is currently lacking in most areas of gambling activity.

The most effective sanction that can be applied is the revocation of a gambling providers licence to provide gambling. This sanction is one that should be used sparingly and indeed it has rarely if ever been applied. However, there have been occasions when a mere suggestion that a gambling provider should be deprived of its licence is enough to bring about significant change. One example is the effect of the section 31 investigation into Sydney's Star City casino in 2000. In that report, Mr Peter McClellan QC stated: -

"I have concluded that at least until recently Star City had developed significant problems in the operation of its private gaming area known as the Endeavour Room. The corporate culture was inappropriate and effective procedures were not in place to deal with prostitution, loan sharking, the service of alcohol, money laundering and sexual harassment."

The report was published publicly and there were suggestions that Star City was not fit to hold a licence. The casino was motivated by the public outcry and suggestions that its licence was in jeopardy to make significant changes to its operations and culture. Subsequent reports showed a marked improvement in the casino's behaviour which appear to have been sustained until the present time.

By contrast, most regulators are content to administer small fines or warnings for breaches of gambling regulations. While these presumably have some impact on the gambling venue, they are usually too small to have any impact on the longer term profitability of the venue. This approach creates an operating environment in which a gambling venue will be better off financially by using all possible means to attract and keep 'good customers' even if there is a risk of breaking the law, if the sanction is only a small fine or warning.

Regulators should be required to make details of their prosecutions public. Regrettably, regulators in some States such as N.S.W. have bowed to gambling industry pressure and no longer make public the names of gaming venues they prosecute or details of penalties imposed. Without publicity of enforcement, the gambling venue operators are encouraged to think that they can get away with lowering their standards, and a race to the bottom results. Also, without providing this information, governments may feel they no longer need to be fully transparent to the public about what they do or fail to do.

The responsibility for responsible gambling compliance must begin at the top of the organisation, with the senior executives who stand to earn bonuses from increasing gambling revenue. These are the people who can create a culture of corporate social responsibility if so motivated. However, the current structure of the gambling industry works against this, as the best source of increased gambling revenue is from problem gamblers. However, if the senior executives are at risk of prosecution

for failing to create an adequate responsible gambling environment in their venue, then they will be motivated to ensure that the gaming floor staff are properly trained and resourced to comply with the law.

In some jurisdictions, responsible gambling regulation tends to be a jumble of laws and rules, created at different times and without a clear overall plan or consistent strategy. We recommend that responsible gambling regulation be simplified and changed from a system of do's and don'ts to a general requirement upon gambling industry providers to provide a safe product. The onus of proof would be upon each gaming venue to demonstrate that it had taken adequate steps to create a safe gambling environment and protect the welfare of problem gamblers and those affected by them.

Regulators would then have the responsibility of encouraging the gambling providers to develop quality systems of continual improvement – so that new developments in consumer protection were automatically incorporated into their responsible gambling programs. Gambling providers that failed to keep pace with the base level of responsible gambling would be at risk of losing their gambling licence. Gambling providers with the highest standards of consumer protection would stand to benefit by taking over the forfeited licenses.

Further Consumer Complaint and Redress – Gambling Industry Ombudsman

While UnitingCare Australia recognises the significance of pre-commitment and other measures recommended in the draft report and the merit of the processes proposed above, we also consider that there is likely to be merit in establishing a more formal consumer information and complaints service and considering the establishment of an Ombudsman type scheme for gambling activity. Such a scheme has considerable potential to assist consumers and to assist in setting and maintaining process and service standards across the gambling industry.

We also believe that development of improved and more explicit product safety standards is an essential pre-requisite for an Ombudsman scheme to be effective.

For an Ombudsman to be effective, they would need to have clear procedural guidelines and clear sets of venue and patron responsibilities. These could be established international codes of practice, with dispute mechanisms documented and promoted. These would provide the basis for an ombudsman scheme to operate. As with other Ombudsman schemes, funding for the service could be from a modest Industry levy.

An Ombudsman type scheme could also provide a mechanism through which programs that provide services and supports to people affected by problem gambling could raise concerns about any retribution for advocacy against funding body positions regarding gambling regulation and other policy matters.

Chapter 9

The Commission seeks views on the practicability of exempting casinos from draft recommendation 9.1 in relation to their high rollers and international visitors.

The problem is that casinos often classify problem gamblers as high rollers and subject them to a range of inducements and other conduct that gets them into trouble. There is no effective regulation of how Australian residents can be classified as high rollers.

One ongoing concern is the provision of credit to problem gamblers disguised as cheque cashing facilities. The following example explains:

The gambler deposited a cheque with the casino for \$75,000 on 11 April 2006. He was given chips to the value of \$75,000 and gambled and lost that amount the same day. However, the casino in question did not present the cheque to a bank until 28th April 2008, some 17 days later, when it was not met. Subsequently the casino made an arrangement with the debtor to repay the money by instalments. This gambler had been approved as a high roller, yet was given de facto credit by the casino for 17 days as the casino knew he did not have \$75,000 at the time he deposited the cheque.

Other gamblers have filed for bankruptcy as a result of such gambling debts.

Chapter 10

The Commission seeks feedback on the period of shutdown that would best target problem gambling, with least side-effects on recreational gamblers.

UnitingCare supports the Commission's proposal to reduce access to EGM gambling by reducing hours of trade. We suggest uniform national opening hours of, at most, 10.00am to 12.00 midnight for EGM venues.

This timing provides ample time for "recreational gamblers" and restricts trading for the hours when the level of problem gambling is highest. We note that these hours are compatible with the hours of operation of Australia's most popular paid recreational activity, going to the movies. It is very rare that cinemas open outside of these hours, and there is not the customer risk in movie attendance that exists with EGM gambling.

Chapter 11

The Commission seeks feedback on the use of loss-limited gaming machines as an appropriate harm minimisation measure. It seeks views on the specific option outlined in chapter 11, and in particular, on design features that could make it practically implementable. It also seeks views on any other option that would have essentially the same harm minimisation benefits.

In view of the limited research on the effects of jackpots on gaming machine play, the Commission seeks further views and information about whether any changes are warranted and, if so, what form they should take and the likely associated costs and benefits.

The suggestion that a gaming machine increase its return to player up to 100% is novel and one that is better in theory than it would be in practice.

Gamblers like to win and the more they win, the more they want to gamble. The random pattern of rewards is basic psychological conditioning that makes gamblers want to gamble more and more.

Problem gamblers are strong on intuition. There are numerous accounts of gamblers trying out different machines to see how they 'feel' and try to judge which ones are likely to 'pay' soon. Generally the machines that have a higher rate of return are more addictive. English "fruit machines" traditionally have low rates of return to player and are not considered as addictive as Australian "penny slots" (as they are known internationally). There are a range of factors, but one of importance is the high theoretical rate of return to players of the Australian product. Gamblers on Australian high intensity machines gamble more, gamble faster, lose less on average but lose more overall.

Locally, larger gaming machine venues such as casinos and large NSW registered clubs, and even larger hotel gaming rooms, operate gaming machines with a higher average return to player than their smaller competitors. This higher return to player is one factor in these venues attracting more problem gamblers.

A machine that increased the theoretical return to player the more that was gambled, would be highly addictive. It would also be complicated to understand. Bearing in mind that many problem gamblers suffer from misconceptions about the way a poker machine operates now, it seems like a tall order to explain how a loss-limiting gaming machine will actually help people reduce their losses.

The loss-limiting machine would be open to all sorts of abuse. Assuming the player tracking is venue-limited, an astute gambler would seek to acquire the lowest recorded annual spend at the venue. The gambler would then be able to reach their annual expenditure limit as quickly as possible and then continue gambling, safe in their knowledge that their theoretical return rate was an average 100%. The suggested amount of \$5000 would be beyond the means of many pensioners, but would be very modest compared with the annual expenditure of most other problem gamblers.

The gambling venues would have to be diligent to avoid gamblers trading their cards, and would have no incentive to keep gamblers who were occupying machines and not losing money. So the gambling venues would devise ways to get rid of the unprofitable customers.

The proposal, therefore, has numerous drawbacks and would in any event be unnecessary if an effective pre-commitment scheme was implemented.

By contrast with the Commission's proposals to introduce loss-limiting machines, the gaming machine manufacturers are committed to devising machines that increase gamblers' losses and open up new markets to them. We draw the Commission's attention to a recent article entitled "The Slot Machine Meets the Video Game" (10 December 2009, Business Week) reporting on this year's Global Gaming Expo: *"The traditional one-armed bandit is being replaced these days with more sophisticated slot machines that incorporate 70-inch video monitors, 3D graphics, and group competition- all borrowed from the video-game and movie businesses. While the payouts are still based on chance, your game skills help you move to new levels. It's a textbook example of a mature industry making a gutsy bid to reach beyond its core customer- women 55 years old and up-to a younger demographic. By awarding fictional medals and incorporating video and sound effects, slot makers hope to bring more gamblers back to the casinos, which have seen a 6% decline in revenue this year."*

A clear process will also be needed to consider any new features of gaming machines. South Australian legislation currently requires a manufacturer or gambling retailer, to prove that a new feature will not increase risks of problem gambling. This should be the approach in other areas of regulation of product development and should apply in any move to a more national approach to machine design and gaming machine standards

It is critical that the move to national standards does not lead to a reduction in standards in existing jurisdictional arrangements that already exceed potential national standards. In these situations, 'best practice' should be retained in the relevant jurisdiction, with transition over time of national standards to 'best practice' standards. Below are some examples where better than national standards already exist and that we would not want to see watered down:

- Note acceptors are not permitted in South Australia, so while a move to a national standard of a maximum \$20 note being permitted in note acceptors nationally, is a welcome move, South Australia's exemption should be retained.
- ATMs regulation in Victoria is better than most other States and Territories.

Chapter 12

On-line Gambling

UnitingCare cannot support the Commission's recommendation to 'liberalise' online gambling. Notwithstanding the argument that Australian citizens are already exposed to risk through online gambling provided by largely unregulated offshore providers, we believe that removing the current ban on Internet gambling in Australia will lead to a greater accessibility of online gambling opportunities, much greater promotion and, consequently, increased levels of problem gambling which will be particularly difficult to detect due to the 'at home' nature of online gambling.

Online gambling is in its growth phase and has a much higher involvement of problem gamblers than land-based gambling activities. The Commission's recommendation that online gambling be legalised fails to consider the massive rise

in gambling-related harm that will most likely result from a legalised online gambling product.

Legalisation of online gambling will result in widespread gambling advertising and it will become very difficult for consumers to differentiate between Australian online products and overseas-based products. This is already the case with a number of overseas online casinos that use Australian themes and designs.

The suggestion that many gambling consumers will choose an Australian product because it has more harm minimisation measures is fanciful. Careful prudent consumers don't shop around for the safest site, they simply don't gamble online. The vast majority of online gambling consumers choose the sites that offer them the best inducements.

By legalising online gambling, the Australian Government would need to find a way to educate gambling consumers into choosing the Australian product instead of the overseas competition. This would be difficult to achieve without the government endorsing the local product, or at least appearing to do so in the minds of consumers.

Undoubtedly the legalisation of online gambling and consequent widespread advertising would lead to an increase in gambling and result in an increase in problem gambling and associated harms. The suggested harm minimisation strategies would only be available on the Australian sites, but the problem gamblers would be able to switch to overseas sites once they had developed problems gambling on Australian sites. As such, most of the proposed harm minimisation measures would no longer be available to them.

As suggested above, information about products should include the percentage of regular players who develop a problem on a particular EGM or similar machine, so people can make informed choices about gambling products and activities.

We note the position taken by the Victorian InterChurch Gambling Taskforce on this matter and agree with the concern raised about it being impossible for Australian Governments to regulate the use of offshore on-line gaming sites by Australian citizens. Such sites will not have to offer the harm minimisation measures that might be required of sites based in Australia. It is not known if gamblers using on-line gaming sites within Australia, might not then migrate to use sites located offshore without the same consumer protection measures with an increased risk of developing a gambling problem as a result.

Chapter 13

The Commission seeks feedback on the feasibility of a direct distribution model, whereby a levy is paid by wagering operators directly to racing clubs, rather than through state racing authorities.

The Commission seeks further feedback on whether credit betting should be extended to other betting providers and, if so, whether the proposed restrictions are appropriate and what minimum credit threshold would strike the right balance.

Credit betting is an unnecessary aspect of all forms of gambling other than for on-course punters. The amount of on-course punting is miniscule and continues to decline.

The suggestion that online punters benefit from credit betting by avoiding credit card fees is erroneous. There are a number of ways in which punters could transfer funds without incurring fees or at least incurring minimal fees. Bearing in mind that the vast majority of bets are losing ones, the reality is that punters could just as simply deposit funds into an ongoing account.

The real purpose of credit is an inducement to lure new customers away from more established and reputable gambling providers. Because online wagering is so profitable, the bookmakers have engaged in a race to the bottom when it comes to credit assessment. Credit is given to anyone, even pensioners and the unemployed. Financial counsellors are increasingly seeing clients being pursued through the courts by these bookmakers. Bets are placed online with Northern Territory bookmakers, so the appropriate law for collection is the law of the Northern Territory. Losing gamblers can't defend the court actions that are instituted by these bookmakers because they would have to find legal representation in the Northern Territory, a jurisdiction lacking in consumer protection laws.

Chapter 15

The Commission invites feedback on the likely merits or drawbacks of involving New Zealand in a proposed centre for gambling policy research and evaluation.

UnitingCare strongly supports the proposed Centre for Gambling Policy Research and Evaluation, on the understanding that it will be adequately resourced to focus on priority, public policy focused research and will have a sound capacity to collect, publish and analyse the range and depth of data that is being collected and will be collected in the future.

Key topics

- Need deeper and more sophisticated analysis of the levels of harm not just the prevalence of harm – need to also have some commentary re the importance of remembering the products are unsafe, rather than the people having individual weaknesses (personal risk factors) that mean they get harmed by an otherwise reasonable product.
- Better understanding of specific harm impacts and processes that will increase the effectiveness and targeting of regulatory reforms. This should include commentary on the need for structural interventions as well as effective personal interventions to help individual problem gamblers
- Monitoring and evaluating harm minimisation measures
- Research

UnitingCare also supports the involvement of New Zealand as a partner in the proposed Centre for Gaming Policy and Research. We note that New Zealand has taken strong leadership on gambling policy, practice and service evaluation at a domestic level, and also provides international leadership in areas of gambling policy development.

An Australasian Centre for Gambling Policy and Research would also have the capacity to take a significant role in the development of international protocols associated with gambling, and could also provide some focus to international aspects of gambling policy development. Further comments on this notion are made in the next section.

Chapter 16

The Commission has set out in very broad terms a framework for implementation of the draft recommendations. It seeks feedback on the transition and coordination issues for the Commission's consideration for the final report.

We wish to concentrate on three aspects of implementation:

1. Commonwealth and State/territory responsibilities
2. The leadership of gambling policy
3. Timing and sequencing of Gambling Reform

1. Commonwealth and State/Territory Responsibilities

UnitingCare Australia supports the Australian Government taking a leadership role in reform of gambling policy through national co-ordination of regulatory frameworks, enhancing consumer protection measures and ensuring access to services that work effectively with people dealing with the impacts of problem gambling and seeking to cease problem gambling.

UnitingCare Australia supports the establishment of a new gambling research, data and monitoring organisation, which includes representation from and consideration of the experience in New Zealand.

We regard the following areas should be the responsibility of the Australian Government:

- Regulation of online and Internet based gambling , including both gaming and wagering
- Establishment of National EGM design standards
- Mandate and rollout of universal pre-commitment scheme by 2016
- Data collection and monitoring of gambling activity, help services, help seeking, compliance and enforcement

- Formation and adherence to any international protocols, treaties and agreements that may be developed

State and Territory jurisdictional responsibilities, at least up to transition to any national program, should include:

- Licensing venues and operators
- Establishing frameworks and protocols for the views and expectations of local residents and other stakeholders to be included in decisions regarding new venues or changing licensing conditions for a venue
- Caps on the number of machines/regional caps
- Policing
- Lotteries

Location of gambling policy within the Australian Government

UnitingCare Australia notes with interest that the location of gambling policy and regulation in the New Zealand government is in the health portfolio. We believe there is merit in this approach since the nation's other two most substantial addictive products, alcohol and nicotine, are dealt with by the Health Department, in particular the public or preventive health aspects of this department. We suggest Australian governments might want to take a closer look at where gambling portfolios are best located and to actively consider locating them with health portfolios. Locating gambling within the health portfolio also provides potential for learning from effective strategies to reduce alcohol and nicotine harm.

Location within the families and communities portfolio would also be acceptable, but gambling policy must be located in a portfolio grouping with a culture and expertise associated with harm reduction, rather than an 'economic portfolio'.

Australia supports and leads development of international gambling harm minimisation protocol.

While a significant part of implementation of gaming harm minimisation measures relates to relationships between state/territory jurisdiction responsibilities and national government responsibilities, we recognise that there are increasingly important international elements of gambling that require greater scrutiny, regulation and monitoring.

UnitingCare Australia recommends that the Australian government take leadership in the development of international protocols and harm minimisation strategies associated with aspects of the gaming industry that operates fluently across national borders, specifically online wagering and Internet gambling. There are a range of mechanisms that would be appropriate, and Australia should consider both the desirability and feasibility of partnering with New Zealand and/or the Canadian governments. Australia could encourage the United Nations through the World Health Organisation, to develop international protocols relating to online and Internet

gambling as well as developing international standards for harm minimisation approaches.

2. Leadership of Gambling Policy Reform

We recognise the competing interests that need to be managed by State and Territory governments who are responsible for concurrently attending to industry expectations, consumer interests, revenue considerations and regulatory frameworks.

For these reasons, and with the growing level of national level responsibility in changing gambling markets, we believe it is essential that the Australian Government takes leadership in gambling policy reform with a dual focus on building national consistency in best-practice regulation and reducing gambling harm.

Given the importance of enhancing consumer protection, it is essential that a mechanism is found to provide leadership in gambling reform that is not vetoed by vested interests working against improved consumer protection and reduced harms from problem gambling.

We identify the following broad options as potential strategies for driving gambling reform designed to reduce gambling harm:

- National legislation
- Ministerial Council on Gambling
- Establishing a national gambling Authority or Commission

National legislation

This approach has the advantage of relative simplicity - the Australian government simply needs to pass legislation through the Australian Parliament. Once legislation is gazetted and becomes law the onus is then on industry to comply, and for enforcement agencies to uphold the law.

The problem with this approach is the question of constitutional rights and responsibilities between the national government and jurisdictional governments.

We suggest that issues like Internet gambling can be dealt with quite readily as national issues, potentially through telecommunications Acts or similar. The implementation of a national approach is much less clear when talking about EGMs or lotteries which are subject to jurisdiction specific legislation and regulation. The powers of the national government to intervene in these areas, to the best of our knowledge, remains largely untested, from a constitutional law perspective.

Ministerial Council on Gambling

Under this COAG-aided forum, the Ministers for Gambling from each jurisdiction and the Commonwealth, would take joint responsibility for driving reform. The best model that we are aware of that uses this approach is the Ministerial Council on Energy which has taken strong leadership in energy market reform as well as regulatory reform particularly in transitioning a range of responsibilities from State/Territory jurisdiction level to national jurisdiction.

The main challenge with leading reform through a Ministerial Council is that most Ministerial Councils seek to operate on a consensus basis, meaning that any jurisdiction can block reform. We believe this is quite likely for gambling. However, we note that the Ministerial Council on Energy operates on the basis that a reform will proceed if at least n minus two members support a proposal or initiative - where n is the total number of Ministers. We understand that there is currently a review of Ministerial Councils under way. Notwithstanding outcomes that may be proposed by this review, we consider there is merit in a gambling reform agenda, including implementation of recommendations from the Productivity Commission's final report in 2010, being driven by the Australian Gambling Ministerial Council operating on an $(n - 2)$ voting basis.

National Gambling Authority

Alternatively, a national gambling authority would be established, by legislation, with the main responsibility being to reduce gaming harm and to have the power to create binding regulation.

Examples of this sort of approach include the Murray Darling Basin Commission and the Commonwealth Grants Commission.

We also note the recommendations for governments in the first Productivity Commission report on Australia's Gambling Industries (1999) in which a two-part structure was proposed for development and oversight of gambling reforms:

- An independent body with responsibility for establishing rules for the operation of gambling markets; and
- A separate body with responsibility for compliance enforcement.

UnitingCare Australia is not aware of a 'pure' version of this approach being applied in any jurisdiction, although some states have made moves in this direction.

We suggest that this two-part national approach still has merit and could be informed by the experience of developing a national approach to energy market regulation. In this context the Australian Energy Market Commission is the rule-maker while the Australian Energy Regulator is responsible for monitoring application of and compliance with the rules.

This approach requires robust legislation to ensure that the independent authority(s) have adequate power to ensure compliance from industry and patrons.

UnitingCare Australia suggests that a revitalised Ministerial Council on Gambling would be the best mechanism to drive reforms to reduce gambling harm. We also believe the Chair of the Ministerial Council should be held by the Commonwealth Minister.

Political Donations

We note the ongoing potential for industry to seek to gain greater than reasonable influence over political parties, through donations in cash or in kind (e.g. hosting political party fundraising events). The process of donations to political parties

needs to be transparent and so we suggest a register of ALL donations, cash or in-kind; to political parties or their representatives, at national, State / territory or local level. This could be through a gambling donation specific disclosure reporting format with website listings and could be maintained by the Australian Electoral Commission, an existing jurisdictional gambling regulator (acting for the whole nation) or a new independent national regulatory or data gathering and reporting body.

3. Timing and Sequencing of Gambling Reform

UnitingCare regards the transitional arrangements for dealing with proposals arising from this report to be an area of high priority. We recognise that reform is needed at both national and jurisdictional level, but will focus here on the national level. We have identified three 'timing blocks' for the implementation of reform:

- 2010 – 2013
- 2014 – 2016
- 2017 – 2020

These timing blocks are based on a two major factors, the Commission's proposed timing for the introduction of universal pre-commitment scheme by 2016, and recognition that the Federal election will be conducted in 2010. There should be clear strategies for action for the life of the next Parliament.

Sequencing of major initiatives to reduce gambling harm:

2010 – 13

- Limiting venue trading hours to a maximum of 14 hours within the timeframe of 10 a.m. to midnight. This measure could be implemented immediately, i.e. before the 2010 election
- Establish a pre-commitment advisory group, comprised of representatives from the gambling industry, technology industry, help services, community advocacy organisations and jurisdictional governments
- Introduction of one dollar maximum limit.
- Barring of all forms of credit betting
- Removal of ATMs from venues
- Development of legislation to deal with egregious behaviour
- Establishment of Australasian Gambling Policy and Research Centre
- Etc

2014 - 2016

- Introduction of universal pre-commitment scheme for EGMs
- Negotiation of international protocols for operation of online and Internet gambling

2017 – 2020

- Evaluation of pre-commitment scheme
- Review of merits of removing redundant harm minimisation measures
- Applying a pre-commitment scheme across all forms of gambling

UnitingCare Australia advice on areas that should be more fully considered in the final Report

Impacts on Indigenous Communities

UnitingCare Australia's initial submission raised concerns about various aspects of gambling in Indigenous communities, particularly gambling by Indigenous people at hotels and clubs that are associated with remote communities that are isolated from external gambling support service provision.

UnitingCare believes that there are specific issues associated with problem gambling for Indigenous communities, particularly where indigenous people gamble at locations that move profits away from those communities.

We believe that this should be an area of ongoing work, specifically data collection and research.

UnitingCare Australia encourages the Productivity Commission to include reporting on the impacts of gambling in its bi-annual report *Overcoming Indigenous Disadvantage: Key Indicators*.

Hypothecation Of Gambling Revenue For Community Benefit

While the issues of taxation are being dealt with elsewhere (via the Henry Tax Review and the Government response to this), we observe that the issue of gambling tax has not been considered within the draft report, despite the regular criticism of State governments that they are too heavily reliant on gambling revenue for own source revenue.

We suggest that there are still some important 'higher order policy debates' associated with gambling taxation that the final report could consider, hopefully with some insight from the Henry Review.

As a matter of principle, UnitingCare believes that it is appropriate that dangerous products are taxed at a high rate, in part as a disincentive for excessive promotion of the more dangerous aspects of the product.

We also observe that rates of return to products that can be addictive are generally higher than economy wide profit rates, and are another argument for governments collecting higher tax revenue from gambling than apply for other parts of the economy.

UnitingCare suggests that there is merit in the Commission considering the merits, or otherwise, of a degree of hypothecation of gambling revenue to specified community benefit and public health based gambling harm reduction strategies. We observe that current jurisdictional government allocations to respond to gambling harm are very much focused at the tertiary end of the public health continuum, with greater resources needing to be applied to primary and secondary harm reduction strategies. We suggest that jurisdictional government allocations to reducing community wide impacts from gambling, in general, have not maintained their value in real terms. We also suggest there is merit in considering a percentage based

hypothecation from gambling revenue, to public health approaches to reduce gaming harm and funding programs for greater community benefit. We have not undertaken detailed analysis of an appropriate level of hypothecation, but suggest something of the order of 5-7% of jurisdictional gambling revenue would be appropriate.

Major Debates

At Productivity Commission hearings associated with the draft report, there have been a number of arguments put by industry, arguing that many recommendations from the draft report should not be implemented, the main two arguments can be summarised as:

1. Paucity of Evidence based research of effectiveness of proposed measures
2. Primacy of individual responsibility in dealing with the risk (from gambling)

UnitingCare rejects these arguments, and suggests that they are used, in part, to delay adoption of important consumer protection measures. We have outlined briefly below our with counter arguments to these two propositions (and related arguments).

Paucity of Evidence based research of effectiveness of proposed measures

Strict application of this argument would mean that penicillin and any number of other significant innovations would never have been implemented, as there was no established evidence base for their introduction.

Evidence, particularly in public policy, needs to be regarded as a 'best endeavours' approach, with the primary focus being on the likelihood to contribute to dealing with the public policy issues at hand. The priority public policy issue in relation to gambling should be to reduce gambling associated harm.

We are satisfied from the considerable experience of UnitingCare counsellors and community workers, and the growing academic research base, that the evidence is compelling to support the measures proposed by the Productivity Commission regarding the reduction of harm from EGM gambling.

We also observe that a part of the current lack of adequate consumer safeguards regarding gambling is due to the extensive liberalisation of the gambling industry in response to lobbying by the gambling industry, rather than the use of any evidentiary process about likely costs and benefits to consumers, communities and societies. This approach has meant that gambling products have been introduced without adequate consumer protections being developed before introduction.

Primacy of Individual responsibility in dealing with the risk (from gambling)

The established approach to dealing with harm from any product, from pharmaceuticals, to electrical goods, road transport, nicotine, alcohol, etc. is for shared responsibility by governments, through legislation and regulation, suppliers (venues) by providing safe products and consumers to assume personal responsibly. Gambling is no different, and there is a responsibility on venues to provide a safe product, as well as government and consumer responsibilities.

We also observe that if the same product safety measures that are applied to pharmaceuticals, for example, were applied to EGMs, (i.e. about 30% of regular users at risk of harm) then EGMs would never be approved.

We conclude that there are no sound arguments for delaying or failing to introduce the consumer protection measures proposed in the draft report as a matter of urgent policy attention.

Further Comment or clarification, please contact

Mark Henley

Manager Advocacy and Communications; UnitingCare Wesley Adelaide

email: Mark.Henley@ucwesleyadelaide.org.au

Phone (08) 8202 5135

Mobile 0404 067 011

Ph (h) (08) 8370 1112

Fax (08) 8202 5842

Susan Helyar

Director, Services Development UnitingCare Australia

Ph: 02 6249 6717

M: 0448 791 987

Fax: 02 6249 8715

email: susan@nat.unitingcare.org.au