

TREASURY EXECUTIVE MINUTE

Minute No.

29 September 2010

Assistant Treasurer and Minister for Financial Services and Superannuation

cc: Deputy Prime Minister and Treasurer

Timing: You have several meetings with Minister Macklin and representatives of the gambling industry tomorrow.

Recommendation/Issue:

- That you note this minute.

Noted

Signature:

...../...../2011

KEY POINTS

- You are scheduled to meet with the following representatives from the gambling industry on Thursday 30 September 2010. Brief biographies and background information on their organisations and their views on gambling reform are included in Attachments:
 - Mr John Whelan, Australian Hotels Association (AHA) National Manager for responsible Gambling (see **Attachment A**).
 - Mr Anthony Ball, Executive Director of Clubs Australia (see **Attachment B**).
 - Ms Cheryl Vardon, CEO of the Australasian Gaming Council (AGC) (see **Attachment C**).
 - Mr Chris Downie, Executive Director of the Australasian Casino Association (ACA) (see **Attachment D**) and Mr Rowen Craige, CEO of Crown Limited and President of ACA (see **Attachment D**).
- See Additional Information for Government commitments on gambling reforms, information on the Ministerial Expert Advisory Group, and process and timing issues.
- Clubs Australia has been particularly critical of the Government's decision to implement a uniform full pre-commitment system by 2014.
 - Clubs Australia are contacting members of clubs urging them to write to their federal MP asking them to vote against the reforms (see **Attachment E** for the letter and **Additional Information** for advice of the concerns they have raised).
- The following areas have been consulted in the preparation of this minute: Personal Retirement and Income Division.

Contact Officer:

Ext:

Principal Advisor
Social Policy Division

ADDITIONAL INFORMATION

GOVERNMENT COMMITMENTS

- The Government is committed to reducing the harm from problem gambling, especially the harm from poker machines.
- The Prime Minister and the Member for Denison have agreed that the Australian Government will work with the states and territories to implement:
 - a full pre-commitment scheme for poker machines that is uniform across all jurisdictions by 2014 with implementation to begin in 2012;
 - a \$250 daily withdrawal limit for ATMs in venues with poker machines (excluding casinos); and
 - dynamic warning and cost of play displays.
- The Government acknowledges the important role played by clubs and the broader gambling industry, which makes an important contribution to jobs and the economy more broadly. It is committed to consulting with industry (see Ministerial Expert Advisory Group below).
- The reforms the Government will put in place should not be seen as an attack on the gambling industry. The aim of the Government is to target problem gambling, while minimising any adverse effects for recreational gamblers.
- The Government will be commissioning an independent study on the impacts of a reduction in problem gambling on other revenue flows and individual spending behaviour.
- As part of its response to the Henry Review, the Government announced that it would not at any stage implement changes to the tax system that would harm the not-for-profit sector, including changing income tax arrangements for clubs.

MINISTERIAL EXPERT ADVISORY GROUP

- The Government is committed to consulting with industry and the community on the implementation of these reforms.
- You, Minister Macklin, Mr Wilkie and Mr Xenophon announced the establishment of an Expert Advisory Group, to be chaired by Professor Peter Shergold on 21 September 2010.
- The Expert Advisory Group will include representatives from:
 - organisations who provide problem gambling counselling and support services
 - technical experts
 - clubs, hotels, casinos and gaming machine manufacturers; and
 - researchers and academics who specialise in understanding problem gambling behaviour and harm minimisation
- A number of nominations from industry and formal invitations will be sent shortly.

- Initial advice will be sought from the Expert Advisory Group in October with more detailed advice sought in December.

PROCESS AND TIMING

- The Prime Minister has written to all Premiers and Chief Minister's inviting them to form a COAG Select Council on Gambling Reform.
- The Select Council will be co-chaired by the Minister Macklin and you.
- The first meeting of the Select Council is likely to be held at the end of October.
- We will be aiming to gain agreement from States and Territories by 31 May 2011 on the proposed reforms and a timetable for implementation.
- The independent study of the impacts of a reduction in problem gambling on other revenue flows and individual spending behaviour will report to government by the end of 2011.
- The Government is committed to beginning implementation of a pre-commitment system by 2012.

ADVICE ON CONCERNS RAISED IN THE CLUBS AUSTRALIA LETTER

The gambling reforms will force clubs to cut jobs, increase food and beverage prices, and reduce community support

- While the introduction of the proposed reforms is likely to reduce employment in clubs, those who lose their jobs should in general be relatively well placed to find employment elsewhere. The overall economy-wide impact on employment should also be minimal as spending that would have otherwise been on gambling is redirected to other sectors of the economy.
 - The Productivity Commission (PC) finds that the employment effects of the gambling industry are small. While many people are employed in the gambling industry, these people tend to be highly employable more generally and would likely be in demand in other sectors of the economy if the gambling sector was to decrease in size. The PC found that gambling industry generates little net employment effects because it diverts employment from one part of the economy to the other.
- The introduction of the proposed reforms may also lead to increased prices of food and beverages. To the extent that food and drinks are subsidised by EGM revenues, a reduction in these revenues are likely to lead to their price rising.
 - The PC found that it is difficult to determine the extent to which clubs cross-subsidise food and beverages with EGM revenues.
 - : While some clubs do significantly cross-subsidise food sales for their members, data from the Clubs Australia submission to the PC Inquiry indicated that the largest source of cross-subsidisation is in sports facilities, operating costs for accommodation, aged and child care, and a range of other expenses, such as promotion.
 - It should also be noted that cross-subsidies used to support cheaper food and beverages may be derived from revenue from problem gamblers.

- The PC received around 200 submissions from clubs, peak bodies representing clubs, or beneficiaries from club contributions, which outlined the benefits to the community from contributions by clubs that are underpinned by gambling revenue.
 - These benefits included:
 - : Donations to sporting teams, charities and community organisations;
 - : Sporting and recreational facilities;
 - : Promoting volunteering.
 - : Broad indirect or intangible benefits, such as improved quality of life for the elderly, secure environments for community members to socialise, and greater social cohesion.
 - However, the PC notes that many of the benefits from these contributions accrue to members rather than to the public at large, and further, the correlation between gambling revenue and contributions to sporting activities and volunteering do not appear to be strong, and may even be negative for volunteering.
 - : The Commission notes that the gross value of social contributions made by clubs is likely to be significantly less than the support the State and Commonwealth governments provide them through tax and other concessions.
 - : The social contributions made by clubs have to be weighed against the costs to the community of problem gambling.
- It should also be noted that a truncated timetable for the introduction of a nationally uniform mandatory pre-commitment scheme by 2014 still provides clubs with time to examine potential avenues for diversifying revenue.

A daily withdrawal limit will impact upon industry revenue and prevent people from accessing their own money

- Research shows a clear link between problem gambling and ATM use in venues.
 - Problem gamblers access ATMs more frequently and withdraw larger amounts.
- A limit of \$250 per day, per card is designed to have minimal impact upon most club users.
 - According to the PC submission from the ATM Industry Reference Group the average transaction amount withdrawn from ATMs in venues in 2008 was only \$174.

Mandatory pre-commitment is a license to gamble, it means Government tells people how much they can spend gambling, it treats all players like problem gamblers

- The Productivity Commission Report into Gambling recommended a full pre-commitment system for gaming machines based on their findings that pre-commitment is the most effective way to target problem gamblers and at-risk gamblers without impacting upon the wider gambling community.
- A full pre-commitment system means that pre-commitment will be offered to all players but they have a choice as to whether they set a limit or not.

- An evaluation of a pre-commitment technology trial in South Australia (PlaySmart) released yesterday also shows that pre-commitment is effective at encouraging better money management and more informed decision making, particularly among problem gamblers.
 - 62 per cent of players agreed that using pre-commitment encouraged them to think about how much they could afford to spend on pokies, and this effect was stronger for problem gamblers.
 - And although limited in size, the PlaySmart trial shows that that pre-commitment can be effective in reducing the amount problems gamblers spend, without adversely impacting on recreational gamblers.
 - The net turnover on poker machines decreased by 56 per cent, for problem gamblers who used pre-commitment, compared with a reduction of only 5 per cent for recreational gamblers.
- Pre-commitment is about empowering people to take responsibility for their own behaviour, by helping them decide exactly how much they want to spend before they start playing.
- The Government will not determine limits; individuals will be able to choose their own limits and have the option to set as high a limit as they want.
- This new technology will give people the tools to stick to their limit and help them keep track of spending.
- We are committed to consulting with industry on the best way to implement pre-commitment without unduly impacting on people who do gamble responsibly.

Punters will stop coming to clubs and will go online to gamble

- The Government did not agree with the PC recommendation to liberalise online gambling.
- We are committed to continue to monitor the current ban on online gaming and are currently examining the impacts of such a ban in other countries, such as the United States.
- There is no compelling evidence to support the view that people who play electronic gaming machines will migrate to online gambling.
 - This will however be one of the issues that the independent study on revenue flows will examine.

ATTACHMENT A – AUSTRALIAN HOTELS ASSOCIATION (AHA)

National Director of Responsible Gambling, Australian Hotels Association, John Whelan

- John Whelan joined the AHA in July 2008 as the National Director of Responsible Gambling.
- Over the past 14 years John has held a number of senior positions within the NSW Government including the NSW Office of Liquor, Gaming & Racing's Director of Policy & Research. John has also served as a Chief of Staff to the NSW Minister for Gaming & Racing and was a senior adviser to the NSW Treasurer.

The Australian Hotels Association

- The Australian Hotels Association (AHA) was established in 1839. Approximately 75% of hotels in Australia are members of the AHA.
- Members range from country pubs to international standard hotels and resorts, and they are represented regarding issues such as workplace relations, fringe benefits tax and gambling.

Views on proposed gambling reforms

- The AHA has previously raised the following issues with the Government:
 - a possible decrease in employment caused by reforms; and
 - the removal of ATMs leading to inconvenience for non-problem gamblers, and creating a security risk to those who have to leave the building to use an ATM. Further, they argue that there is no evidence that it will curtail problem gambling.
- In addition, the AHA submission to the PC report on gambling raised the following:
 - a lack of research and evidence to support the removal of ATMs from gaming venues;
 - that there have been many improvements in harm minimisation and regulation in response to the PC gambling report of 1999;
 - they support a ban on gambling on credit;
 - the higher level of problem gamblers in the on-line market, according to some research; and
 - they note that 70 per cent of their income was generated by food and drink sales.

Other relevant concerns of the AHA

- The AHA has previously raised concerns with the Government that the concessional tax treatment of the clubs industry gives clubs an unfair competitive advantage over hotels.
 - In many cases licensed clubs and hotels provide similar hospitality and gambling services.

- Clubs are taxed concessionally relative to hotels due to the principle of mutuality, which results in mutual organisations not paying income tax on a portion of their profits, and because gambling taxes are levied at concessional rates for clubs in some states.
- In its response to the AFTS Report the Government advised that it would not make any changes to the tax system that harm the not-for-profit sector, including changing income tax arrangements for clubs (Treasurer's Media Release No. 28 of 2010).

ATTACHMENT B – CLUBS AUSTRALIA

Clubs Australia Executive Director Mr Anthony Ball

- Mr Anthony Ball was appointed as Clubs NSW CEO on 28 June 2010. He is also Executive Director of Clubs Australia and CEO of ClubKENO Holdings.
- Mr Ball has been with ClubNSW since 1999, most recently as head of policy and government where he was responsible for industry advocacy and policy development in areas such as taxation, smoking, liquor reform and problem gambling.



Clubs Australia

- Clubs Australia is the federated organisation of 4000 not-for-profit club associations in every State and Territory of Australia, as well as New Zealand. Approximately half of all Australian clubs are in New South Wales.

Views on proposed gambling reforms

- Clubs Australia strongly opposes the proposed gambling reforms, particularly a mandatory pre-commitment scheme and reduced daily withdrawal limit for ATMs in clubs.
- Issues raised by Clubs Australia include:
 - Prevalence studies are consistently showing reductions in the level of problem gambling, and that self-help options for problem gambling are effective and needed more than changes to poker machines. Options which target problem gamblers are preferable to measures which affect everyone.
 - An estimate that the reforms will result in a 30 per cent reduction in clubs' revenue and involve high implementation costs.
 - Clubs collectively employ over 80,000 people and make a social contribution of more than \$1.2 billion per annum, much of which is underpinned by gambling revenue.
 - The reforms are untested and ineffective. There is no research to link ATM cash withdrawals to problem gambling, but rather that ATMs located in clubs offer the community security and convenience.
- In its media release of 2 September 2010 Clubs Australia argued the reforms will mean the Government can tell Australians how much of their money they can spend gambling.
- Clubs Australia supports some problem gambling measures, including improved research on problem gambling; harm minimisation benchmarks for online gambling; education for young people in financial literacy; family interventions for problem gamblers; and an accreditation process for problem gambling counsellors.

Previous correspondence with Treasury

- In July 2010 Mr Ball wrote to the former Assistant Treasurer, welcoming the Government's response to the Productivity Commission's Report into Gambling.
- However, he raised concerns that “solutions” are proposed which would impact upon every person who chooses to play a gaming machine with no surety that problem gamblers would be helped”.
- Clubs Australia strongly supported the government's decision to include consideration of costs and benefits as part of the assessment of a particular measure's efficacy.
- section 22
 - section 22

Commonwealth tax concessions

- Many licensed clubs that offer gambling services are taxed concessionally, relative to businesses, due to the ‘principle of mutuality’.
 - The principle of mutuality is a judicially-created principle of income tax law: to the extent that an organisation operates mutually for the benefit of its members, it does not derive income from its members. This is based on the notion that a person cannot make a profit from selling to themselves.
 - This means that mutual entities, such as licensed clubs, do not pay income tax on a proportion of their earnings. You have portfolio responsibility for the application of the principle of mutuality.
- Many licensed clubs accessing the mutuality principle are very large, and their relationship with the community resembles more of a customer / business relationship than a clear and close relationship between members.
 - section 22
- Clubs Australia has a long history of interaction with the Government on issues relating to the taxation of clubs and the principle of mutuality.
 - Clubs Australia and Clubs NSW, have lobbied successive governments to extend the application of the mutuality principle in relation to third party receipts, including Keno receipts.

- : This request would enable all dealings with members, including those that involve a third party, to be income tax exempt in the hands of clubs.
 - : The Government has previously indicated to Clubs Australia that it will not extend the mutuality principle to third party receipts, including Keno receipts.
- Clubs Australia has previously made a request to the Government that the mutuality principle be legislated for the sake of clarity on how the principle is to be applied.
 - : The only legislation governing the application of the principle of mutuality to clubs was made in 2005 in response to a High Court case that found that not-for-profit organisations could not access the principle. A legislative amendment was made to confirm that not-for-profit organisations will not be precluded from accessing the mutuality principle solely because they are precluded from distributing to members on winding up.

ATTACHMENT C – AUSTRALASIAN GAMING COUNCIL (AGC)

Australasian Gaming Council CEO/Executive Director Ms Cheryl Vardon

- Ms Vardon has held a number of chief executive roles in government and non-government organisations, and is now responsible for strategy and government relations at the Australasian Gaming Council.
- Ms Vardon also chairs the South Australian Government's Responsible Gambling Working Party, which was established in November 2006 to report to the Minister for Gambling on strategies that can be implemented to support customers to make commitments about their level of gambling on gaming machines, including pre-commitment trials.



Australasian Gaming Council

- The AGC is a national body which aims to support a sustainable gambling industry providing entertainment and economic benefits while promoting gambling education and responsible gambling measures.
- The AGC was established in June 2000. Its members come from all sectors of the industry including wagering, licensed operators, clubs, hotels and casinos.

Views on proposed gambling reforms

- The AGC welcomed the Government's response to the PC Report on Gambling, announced in June 2010, but raised concerns about the PC recommendations on pre-commitment and ATM withdrawal limits.
- Issues raised in the AGC's submission to the Productivity Commission Inquiry include:
 - Potential far reaching negative consequences for state government revenues, industry viability, employment, capital investment and tourism.
 - The PCs assessment of the benefit provided by the gambling industry is too low.
 - Some harm minimisation measures may result in costly changes that fail to adequately protect problem gamblers and/or give rise to unintended consequences such as problem gamblers bringing more cash to venues or making cash withdrawals at ATMs outside the venue.
 - The impacts of harm minimisation measures already in place and the possible efficacy of those on trial or planned for implementation have not been comprehensively analysed prior to the proposal of further regulation.
 - Policy intervention must be targeted appropriately to impact problem gambler and moderate risk groups rather than all gamblers
 - An opt-in model of pre-commitment would more appropriately balance the interests of high and low spending recreational gamblers with the needs of those 'at risk' or experiencing problems.

- Australian research suggests that those who experience problems are not unaware of the impacts of their gambling behaviour. Combined with the appropriate marketing and educative tools voluntary systems could be used as a matter of choice and a self-help measure by those experiencing problems.
- The ATM withdrawal limit proposed by the Productivity Commission may not effectively target harm to those experiencing problems and will further impact high spend recreational gamblers and other consumers.
- Further regulation on ATM withdrawal limits should not be progressed until the impacts of the \$400 daily limit applicable to Victorian venues from 2010 are properly assessed.

ATTACHMENT D – AUSTRALASIAN CASINO ASSOCIATION (ACA)

Executive Director, Australasian Casino Association, Mr Chris Downy

- Mr Downy joined the ACA in October 2000.
- Mr Downy was previously Head of Corporate and Government Relations at Sydney Airports Corporation. Mr Downy was a Member of the Lower House in the NSW Parliament from March 1988 to December 1997, including as Minister for Sport, Recreation and Racing in the Liberal State Government from May 1993 to April 1995 and Shadow Minister for Sport and Recreation with responsibility for Racing and Gaming issues before resigning from Parliament in November 1997.



President, Australasian Casino Association, Mr Rowen Craigie

- Mr Craigie was appointed as CEO of Crown Limited in January 2002. He was appointed Crown's Executive General Manager, Gaming Machines in 1996, and Chief Operating Officer, Casino in 2000.
- Prior to joining Crown, Mr Craigie was Group General Manager, Gaming at the TAB in Victoria and previously held senior economic policy positions in the Victorian Treasury and Department of Industry.



The Australasian Casino Association

- The ACA represents Australia's thirteen casinos and five casinos in New Zealand.
- The ACA commissioned a number of reports into the casino industry in 2009 including: Casinos and the Australian Economy and Australian Casinos Responsible Gambling Initiatives 1999-2008.

Views on proposed gambling reforms

- Concerns raised by the ACA in response to the PC's draft and final reports, and as a result of Allen Consulting Group Analysis, include:
 - A perception that the PC report adopts a 'one-size-fits-all' approach, and fails to recognise the 'distinctive nature' of the casino industry.
 - : They argue that casinos are destination venues, with visits requiring planning and often travel over long distances.
 - : They also argue that they play an important role in a globally competitive tourism industry, and offer a variety of non-gaming services.
 - General analytical weaknesses and a lack of rigour in conclusions that are based on rough estimates.
 - There is not enough recognition of casinos' commitment to responsible gambling, and previous investment in harm minimisation strategies, skills and training.

ATTACHMENT E

IMPORTANT MESSAGE FOR CLUB MEMBERS

As a Club member you have an interest in this club's continued growth and success – after all, "it's your club". I regret to inform you that your club's future is threatened because of a deal made by the Federal Government with an independent member of parliament from Tasmania, named Andrew Wilkie.

Mr Wilkie won only 13,000 votes in the election and has never visited our club. But he demanded the Federal Government take action on poker machines in order to win his vote and the Government agreed to his demands. This letter outlines for you what impact that deal would have for our club and how you can help to stop it from happening.

WHAT COULD HAPPEN TO OUR CLUB?

The Government committed that it will implement a \$250 daily withdrawal limit on ATMs in clubs and pubs (the casino will be exempted). This means that if you need more than that, you will be prevented from having access to your own money in your club.

The Government has also announced that it will support mandatory pre-commitment on poker machines. This means that you would have to apply for a device which you insert into the poker machine in order to activate it and the device would control how much money you can spend playing. The device would record how much you spend and stop you from playing on every machine in the country once you had reached a set amount of spending. It would be a "license to gamble".

WHY DOES THE CLUB OPPOSE THESE MEASURES?

We believe that these measures treat all our members as irresponsible and like problem gamblers. You should be able to have access to your money in your club. We believe you are already able to set your own limits on poker machine play like a responsible adult and should not be told by the Government how much you can spend. We also believe that problem gamblers should get proper counseling and help, rather than forcing all club members including you to get a license to play a poker machine.

These measures will be expensive and will force us to cut jobs, increase prices of food and drinks and reduce our community support. This is money we would otherwise spend on [enter cause]. Because these measures would only apply to poker machines, punters will stop coming to the club and will go online to gamble – reducing club revenue by around 30 percent. That is a high price to pay for one vote in parliament.

HOW CAN I HELP STOP THIS FROM HAPPENING?

If you want to stop the Government from doing this to our club, please write to our Federal MP Tony Abbott (Member for Warringah) and ask them to support our club and vote against these proposals. They can be contacted at P.O Box 450, MANLY 2097- PH: 99716411- EMAIL: Tony.Abbott.MP@aph.gov.au

Thank you for your support of our club at this important time

Sincerely
 Paul Crowley JP ACCM
 General Manager

the club on the beach

COLLAROY SERVICES BEACH CLUB LTD