

## Response to consultation on facial recognition and player card gaming technologies to minimise gambling harm

### Context

The Minister for Finance (**Minister**) has directed the Tasmanian Liquor and Gaming Commission (**Commission**) to investigate the extent to which facial recognition (**FRT**) and player card gaming technologies (**PCG**) for electronic gaming machines (**EGMs**) in hotels, clubs and casinos could minimise gambling harm in Tasmania. The Commission's report on this investigation is due to the Minister by 30 June 2022.

On 17 March 2022 the Commission wrote to Federal Group, seeking its feedback on facial recognition and player card gaming technologies and how they might be implemented in Tasmanian gaming venues. The Commission enclosed a copy of an environmental scan report titled "*Gambling Harm Minimisation Technologies Research*" prepared for the Commission by Stenning & Associates (**Stenning Report**).

Within its letter of 17 March 2022, the Commission invited Federal Group's attendance at a face-to-face consultation session facilitated by consultant Suzi Watral of Allambie Consulting Pty Ltd. A "*Harm Minimisation Technologies Consultation Paper and Questions*" (**Consultation Paper**) was provided to Federal Group in advance of the consultation session. Representatives of Federal Group attended the consultation session on 29 April 2022 and provided verbal input on the areas of consultation, although full coverage of all the areas of feedback was not possible within the one-hour allocation for the consultation session.

This submission represents Federal Group's written response to the Commission's consultation process and is intended to be considered in addition to the verbal input provided at the consultation session.

### Introduction

Federal Group is a family-owned and diverse services-based company based in Tasmania. The company has a long and proud history as a major investor and operator in the Tasmanian hospitality, tourism, casino, gaming, and retail sectors. Federal Group is Tasmania's largest private sector employer, providing jobs and careers to 1,900 Tasmanians.

Federal Group has been the sole gaming licence holder in Tasmania since Wrest Point casino was licensed as Australia's first legal casino in 1973. This is a responsibility that the company takes very seriously and is why Federal Group has invested heavily in developing and supporting stringent and responsible practices that have helped to ensure that Tasmania has the lowest levels of problem gambling and "at-risk" gambling.

In addition to owning and operating Tasmania’s two casinos since their opening (Wrest Point in 1973 and Country Club in 1982), Federal Group established Network Gaming as a business to introduce and manage gaming in Tasmanian hotels and clubs from 1997. Network Gaming has always operated at “arm’s length” from the rest of the company and has been responsible for ensuring strong compliance and responsibility throughout the network of hotel and club EGM venues.

Since 1999, Federal Group has also owned and operated freehold community-based hotels under the Vantage Hotel Group. The group currently operates 12 hotels that provide bar, gaming, bistro, and accommodation in their local communities.

## General comments

### ***The Minister’s recent public statements regarding pre-commitment***

The Minister recently made comments to the media regarding this process that were reported in both the Examiner and Advocate newspapers on 25 April. The newspapers reported that the Minister was “determined” to bring in a card-based pre-commitment scheme for EGMs in Tasmania and that he believes it is the “answer” to problem gambling.

We note that these comments by the Minister have given an indication of his expectations about what he will receive in the Commission’s report and telegraphed these through the media. Unfortunately, this public statement of intent has the potential to undermine the perception of independence of the Commission’s recommendations in response to this consultation. Federal Group urges the Commission to disregard the Minister’s statement and to maintain the independence of its findings and recommendations.

### ***Limitations of the Stenning Report***

The Stenning Report does not contain any consideration of the unique context of the Tasmanian gaming environment or consultation with anyone in industry to give their perspectives on the events or initiatives outlined.

Our understanding from discussions with other industry members is that the costs, complexities, and challenges of implementing FRT and CBG are inadequately dealt with in the report and therefore do not paint a true picture of the issues that may be faced in Tasmania. It is therefore prudent that any decision making regarding the possible implementation of these technologies within the Tasmanian gaming environment is approached with caution and care.

Understanding the context in which gaming operated prior to the initiatives is critical to gaining an appreciation of the extent to which initiatives from other jurisdictions might be relevant to a place like Tasmania. For example, in Norway prior to the introduction of pre-commitment, EGMs were able to be played in unlicensed and unregulated environments such as train stations, shopping centres, and restaurants. The Norwegian Government took the decision around 2009 to ban all EGMs and then re-introduce them under Government ownership with mandatory pre-commitment. When the full context of this is made clear, there is limited relevance of this initiative to Tasmania.

### ***Limitations of the consultation process***

Our submission and feedback are limited to our corporate experiences and will not provide a complete picture of all the considerations regarding the potential introduction of new harm minimisation technologies.

As part of its consultation, we strongly encourage the Commission to gain the views of the Australasian Gaming Council (AGC) and Gaming Technologies Australia (GTA) as these organisations are the domestic experts regarding the research, technology considerations and industry perspectives when it comes to FRT and PCG within Australia.

There is considerable industry-based experience with various aspects of FRT and PCG technology outside of Tasmania and the Commission should consult with members of the industry in those jurisdictions referenced in the Stenning Report. They would be able to give a better perspective on the challenges, issues, and resources required to effectively implement and operate FRT and PCG technologies in gaming venues.

### **Facial Recognition**

Federal Group supports the implementation of FRT to detect excluded persons at the entry points to all gaming areas containing EGMs within Tasmania. This is an example of where proven technology can operate to improve the effectiveness of venue practices for recognising excluded persons within gaming venues.

The identification scanning technology being used in Queensland for the enforcement of liquor banning orders has not been tested or proven effective for the enforcement of gaming exclusions within the Australian gambling industry and therefore should not be introduced.

### ***Technology considerations***

It is presumed that the Tasmanian Gambling Exclusion System (TGES) online system will require enhancement before it can be used in connection with FRT. The TGES online system must be capable of simultaneous connection with many venues and be able to process multiple simultaneous data requests from a single venue as larger venues will have multiple gaming room entry points covered by FRT at the one time.

The feedback provided to Federal Group from casinos in other jurisdictions outlines the importance of high-quality images (photographs) being available to support the effective operation of FRT for the detection of excluded patrons. There are likely to be current images of excluded patrons located within the TGES online system that are not of sufficient quality for FRT comparison purposes and this will need to be addressed as part of the implementation of FRT in Tasmanian EGM venues.

### ***Timeframes for implementation***

The Tasmanian gaming industry is about to embark on its most significant period of change in decades with the transition to individual licensing of hotels and clubs with EGMs. From July 2023 a new Licensed Monitoring Operator arrangement will be in place and hotels and club operators will be taking on significantly greater individual responsibility for gaming operations and regulatory compliance. This change in regulatory model requires the full attention of everyone in the industry (and government) and to make further changes to the regulatory requirements during this time would be irresponsible and is highly likely to have adverse consequences.

It is proposed that any decision about the timing and implementation approach for FRT in Tasmanian EGM venues is delayed until at least July 2024, this ensures the industry has an adjustment period of at least 12 months following the implementation of the new gaming model in July 2023. A final decision about the timing of the implementation of FRT technology should not occur until the Commission has confidence that the Tasmanian gaming industry has appropriately adjusted to the new regulatory environment and has the capacity to support further changes.

The Commission should ensure that sufficient time is allowed for the industry to procure or obtain the critical hardware required to support the implementation of FRT. Global supply chain issues continue to inhibit the procurement of many technology items and this may take some years to resolve. Additionally, the in-venue installation of the technology required to support FRT within Tasmanian gaming venues would require the specialist skills of a finite group of technology providers, many of whom are not based within Tasmania.

### ***Field Trials***

The challenges of implementing a FRT based system for the detection of excluded patrons across all Tasmanian EGM venues may not be fully understood.

To properly inform the decision regarding timeframes and the approach to FRT implementation in Tasmanian gaming venues it is proposed that field trials should first be conducted. Following the completion of the field trials the Commission can make an informed decision about the best approach for implementing FRT at all Tasmanian EGM venues.

### **Regulatory framework**

It is recommended that the Commission issue a set of technical standards and operational protocols for the operation of FRT at Tasmanian EGM venues. The development of these technical standards and operational protocols should involve a consultation process with industry.

Where a compliant FRT system is operating as expected at a Tasmanian EGM venue and the Commission's operational protocols have been complied it, this should be considered by the Commission to be sufficient evidence that a licence holder or special employee could not have reasonably known that the excluded person had entered the premises or participated in an EGM based gaming activity within the premises, for the purposes of establishing a defence under section 112J(3) of the *Gaming Control Act 1993*.

### Player card gaming (PCG) technology

Federal Group has several years of experience operating a player card gaming (PCG) system for EGMs, after first implementing the technology in Tasmanian casinos in July 2017. The PCG system operating at both Tasmanian casinos is compliant with the Commission's "*Card Based Gaming Systems Technical Standards*" (**Technical Standards**) issued in April 2017. The Technical Standards issued for Tasmania were substantively based on the Queensland Office of Liquor and Gaming Regulation's "*Card Based Gaming Minimum Technical Requirements*" at the time and contain contemporary technology measures that continue to provide the appropriate standard for the conduct of a PCG system within Tasmania.

In March 2021, the Federal Group casinos commenced the operation of a Premium Player Program (**PPP**) that required all members to set an annual loss limit in accordance with the "*Tasmanian Liquor and Gaming Commission Premium Player Program Rules (Pre-commitment)*" and the "*Tasmanian Liquor and Gaming Commission Premium Player Program (Pre-commitment) Limit Setting Standards*". This was the first application of mandatory pre-commitment to a loyalty program in Australia.

### **Should player card gaming (PCG) technology be introduced?**

It is difficult for Federal Group to provide specific feedback on the considerations surrounding the possible usage of PCG technologies in Tasmanian gaming venues, and their expected effectiveness, without an understanding of the area of gambling harm the Commission is seeking to minimise. There has been no articulation of the specific problem that PCG related technologies are attempting to solve and how success would be measured.

Tasmania is already the Australian jurisdiction with the most robust rules and regulations applying to EGM gambling in casinos, hotels and clubs. The Commission has not outlined any evidence that the existing measures in place within Tasmanian gaming venues are not effective in meeting the Commission's harm minimisation objectives.

Similarly, the evidence from the 5<sup>th</sup> Social and Economic Impact Study (**SEIS**) paints a clear picture: gaming and EGM expenditure in Tasmania is low and declining, Tasmania has the lowest prevalence of all gambling risk categories (problem gambling, moderate risk, and low risk), Tasmania has just 0.4% of the population defined as problem gamblers and this rate is declining<sup>1</sup>. When announcing the publication of the SEIS on 1 July 2021<sup>2</sup>, Minister Ferguson welcomed the report, stating that:

*“The Tasmanian Liberal Government has put important measures in place to reduce problem gambling in our State and we welcome today’s Report which confirms that those measures are working as intended.”*

The SEIS found that Tasmania’s per capita expenditure on gambling is the lowest of all Australian states at \$733 per adult compared with the Australian average of \$1277<sup>3</sup>.

Whilst a decision to impose PCG technology requirements on the Tasmanian gaming industry would be unnecessary from a harm minimisation perspective, any decision to impose such a requirement should ensure that *all* venues offering EGMs in Tasmania are required to use PCG technology.

Federal Group has made a significant investment over the past 5 years in a casino PCG system, and it would be unfair to require Federal Group to acquire a different PCG system or make substantive changes to its existing system at this early stage in the system’s life. If the Commission determines to prescribe an alternative PCG system for operation in Tasmanian gaming venues, Federal Group considers it should not be punished for ‘going first’ and therefore the current casino PCG system should continue to be appropriate for use within the casinos until its end-of-life.

### ***Proposed regulatory framework for PCG in Tasmania***

The Commission’s current Technical Standards provide the appropriate regulatory framework for a PCG system within Tasmania. The Technical Standards are contemporary and closely aligned with similar requirements in Queensland, specifying player protection and harm minimisation requirements with the following harm minimisation features:

- Only registered cards can be linked to player loyalty systems;
- Unregistered cards are permitted but these cards have a lower maximum balance and a maximum period of activity of 2 days; and
- Pre-commitment limits (if enabled on the system) for the maximum account balance into the player account or onto the card, maximum spend, maximum time spent on game play in a single day and the maximum amount of funds that can be transferred to an EGM credit meter.

The Commission's stated objective of the Technical Standards for pre-commitment is to *"assist players to better manage their gambling behaviour if they choose to do so."*<sup>4</sup> Federal Group contends that any pre-commitment system to operate in Tasmanian gaming venues must continue to focus on supporting player choice. For most EGM users, EGM gaming is a safe recreational activity and by offering pre-commitment on a voluntary basis a player has access to harm minimisation tools if they choose to use them, but their availability and application does not unnecessarily impose upon those players that do not want or require that level of gambling control. The offering of limit functionality should provide the patron with a level of informed choice when the system responds to a limit being reached and ideally provide the patron with timely limit usage information as they advance closer to their limit.

The Commission's Technical Standards do not currently prescribe maximums for pre-commitment limits. Federal Group contends that this continues to be the appropriate harm minimisation position for the Commission to take. Prescribed maximum pre-commitment limits are a blunt tool that arbitrarily and unnecessarily limit the choices of low risk and recreational gamblers. Given that Tasmania already has the strictest harm minimisation regulation in Australia it is not necessary to prescribe maximum pre-commitment limits for PCG in the Tasmanian gaming industry. Other existing regulatory controls such as the maximum bet size of \$5 and the limits on access to cash on gaming premises mean that pre-commitment limits can and should be left to patron choice within the Tasmanian gaming industry.

Caution must be exercised to ensure that the regulatory requirements for EGM gaming in Tasmania continue to balance harm minimisation measures with an appropriate level of patron choice and do not become so excessively restrictive that less regulated gambling products become the preference for 'at risk' gamblers. If this were to occur, the overall outcome of harm minimisation would not be achieved.

Wide scale mandatory pre-commitment is not in use in any other jurisdiction globally, except Norway<sup>5</sup>. As discussed, the Norwegian initiative was introduced well over a decade ago and the context was so unique that this case has little relevance or application to Tasmania. While there would be many reasons why no other jurisdiction has introduced mandatory pre-commitment, one is the lack of evidence of effectiveness and the potential for unintended consequences. Delfabbro & King (2021) assessed the evidence and identified that two limitations of mandatory pre-commitment are that: higher risk gamblers might choose to gamble elsewhere on less or unregulated products, and that there could be a migration away from mainstream gambling providers even where there is no harm<sup>6</sup>.

### ***Should cashless gaming (i.e., linked to bank account) be introduced?***

Cashless gaming, where a player card is linked to a bank account, should not be introduced at this time. This technology has not been the subject of adequate research to understand the possible harm minimisation impacts of its use in a gaming environment. The proposed trial in NSW has not commenced and no date has been set for its commencement.

### ***Timeframes for implementation***

In Federal Group’s experience, the implementation of a PCG system is complex, time consuming and disruptive for the venue, its staff and its customers.

The Tasmanian gaming industry is about to embark on its most significant period of change in decades with the transition towards individual licensing of licensed premises. From July 2023 a new Licensed Monitoring Operator (**LMO**) arrangement will be in place and hotels and club operators will be taking on significantly greater individual and financial responsibility for gaming operations and regulatory compliance. This significant period of change requires the full attention of everyone in the industry and to consider further changes to the regulatory requirements during this time would be ill-informed.

It is proposed that any consideration of PCG in Tasmanian EGM venues is delayed until at least July 2025, this ensures the industry has had an adjustment period of at least 2 years following the implementation of the new Licensed Monitoring Operator arrangement on 1 July 2023. The Commission will then be able to reliably assess how the Tasmanian gaming industry has adjusted to the new regulatory and LMO environment and whether considering further changes to regulation and technology would be responsible at that time.

### ***Avoiding bespoke requirements***

The Tasmanian gaming industry is already subject to several unique regulatory requirements through the “*Australian and New Zealand Gaming Machine National Standard – Tasmanian Appendix*” that applies to all EGMs in Tasmania and limits EGMs to a maximum bet of \$5 and a maximum of 30 lines. These unique technology restrictions limit the availability of EGM games and products within Tasmania as there is not a sufficient demand for these unique products to commercially appeal to suppliers and manufacturers of EGMs, the Tasmanian gaming market is simply too small.

Where a technology product is modified to meet unique requirements, or is an entirely bespoke solution, it creates ongoing challenges and risks for the technology manufacturers when maintaining and improving those technology products, especially in a gaming market as small as Tasmania. Federal Group continues to experience significant technology challenges with the card-based pre-commitment system it recently implemented for the PPP in Tasmanian casinos as the technology requirements are unique to Tasmania and out of step with the other jurisdictions that use the same baseline pre-commitment system. These challenges can be avoided by maintaining synergy with the requirements in the larger Australian states and avoiding the imposition of regulations in Tasmania that require bespoke technology solutions or modifications. Tasmania is just too small to have unique requirements. In all cases, the requirements of the large States should be implemented without modification. Carrying the Queensland requirements over to Tasmania without modification would be a good practice and solution.

### ***Consideration of other harm minimisation technologies***

The contribution that other player monitoring technologies can make to gambling harm minimisation should not be understated. There are now technologies in operation in gaming venues in other Australian jurisdictions that enhance the monitoring of gaming related patron behaviours within the gaming venue and while using EGMs, providing timely opportunities for early intervention by venue staff.

Early signs of ‘at risk’ gambling can be visible within the gaming data obtained through a PCG system. Risk based tools can interpret the gambling data and alert the venue staff to possible ‘at risk’ gambling behaviour. This then provides the opportunity for an appropriate risk-based approach to be taken to escalate and respond to the alerted behaviours.

There are also harm minimisation technologies available and in use within Australian gaming venues that do not require a PCG system as they enhance the monitoring of gaming patrons by providing an application platform for staff to record observed ‘at risk’ patron behaviour and through structured incident tracking and escalation processes support a timely venue response and effective decision making in response to this observed behaviour.

Federal Group encourages the Commission to turn its mind to other harm minimisation technologies currently in use within Australia and how they may be effective in minimising gambling harm; rather than unique, bespoke, and untested technologies that may not be effective and further isolate the Tasmanian gaming industry.

**Federal Group**

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