

Submission on the Future Gaming Market Amendment Bill, released 7 July 2021

As virtually all of the comments I made in my submission to the stage one Future Gaming Market consultation in March 2020 remain unaddressed and unresolved by the Government's FGM Amendment Bill, I re-submit my March 2020 submission (see below), and provide the following additional comments:

Comments

I remain concerned at the direction the Bill is taking both Tasmanian gaming consumers and industry. That there is no deliberate harm minimisation embedded in the legislation is a lost opportunity and borders on negligence.

The lack of support for the increased regulatory functions that will be required of the Liquor and Gaming Branch and the Tasmanian Liquor and Gaming Commission will result in them being forced to continue as auditors rather than inspectors and leaders of best practice. We have seen what has happened in other Australian jurisdictions when the inspectorial function is not properly resourced.

The impact on smaller and single-venue owned pubs and clubs will be seen in the near future: I predict many of them will struggle to meet their regulatory and financial requirements and larger players will concentrate their power in the market.

All of this could be avoided if the FGM actually did what it should do: remove super profits from industry and create strong public policy that protects vulnerable consumers.

Despite many months to develop the details, this draft exposure Bill still fails to provide the level of detail required for public commentators and legislators to properly assess the costs and benefits of the proposals.

Small players in the gaming industry will not know what has hit them if this legislation is passed in its current state. Federal group hotels will be likely prosper, as they already know through their partner business, Network Gaming, what's involved in buying, installing and maintaining machines, in training staff and ensuring everything meets the requirements of the Mandatory Code, etc. But the small operators have no idea how much it will cost them to cover all the costs not covered by the core functions of the Licensed Monitoring Operator (LMO). We don't even know yet what the price of the core functions will be. Will a pub in Rosebery find a technician willing to travel there for the same price as a pub in Glenorchy?

The FGM congratulates itself on sharing the pokies bounty fairly but small earning venues don't have high earning EGMs and face huge uncertainty in how these changes will impact their revenues. We will likely see business failures in small regional operators and an aggregation of the market that will see pokies being moved around the state to the places that earn the most for venues. History has shown us that this will lead to more pokies in lower socio-economic areas.

Meanwhile, there is no commitment to increasing funding for the Liquor and Gaming Branch. Over the years, I witnessed the hollowing out of the Branch, with its operation being reduced from an inspector model to just auditing. The simple fact is there are fewer inspectors now. This is already not good enough but it will become even worse under the proposed model because instead of being able to talk with Network gaming as the one provider of all the machines, signage, training, etc, the Branch will have to have a relationship with each individual venue. These relationships cannot be managed properly with the resources currently available to the Liquor and Gaming Branch.

I am completely bemused by the proposed tax rates. This is simply favouring parts of the industry over others. There is no policy reason for having different tax rates for the same product just because they are in different venues. All EGMs should be taxed at the same rate and have the same CSL rate applied.

And there is nothing in this “reform” for consumers. This is hardly surprising as the entire model is a product of the gaming industry. But we have some of the most aggressive pokies in the world and the Government can and should mitigate the worst impacts on the vulnerable players of EGMs. The Commission has told the Government many times that more needs to be done for harm minimization. We need to slow the spin rates and force breaks in machine operation. Western Australian machines are slow and simple and there are no complaints being made over there. Slowing the spin rate will do no harm to recreational gamblers but will reduce the rate of losses for problem gamblers.

The opening hours of gaming venues should be reduced. Every venue knows that the people in there in the last two hours of opening are not recreational gamblers. They are problem gamblers. It is also tough on the staff: they don't like to see what happens at those times.

Conclusion

The proposed Bill is not good for consumers, many industry players or government and should be rejected or drastically amended in order to provide good public policy for Tasmanians.

Peter Hault

Chair, TGC and TLGC 2008 - 2016

Secretary, Department of Health 2007

Secretary, Department of Justice 2003 – 2006

RE-SUBMITTED AUGUST 2021: Submission Relating to ‘Future of Gaming in Tasmania Consultation Paper’ Released 25 February 2020

Opening Remarks

In the opening paragraph of this Paper it states that the function of the Paper “...provides details of the Future Gaming Market regulatory model that will implement that policy (the Government’s gaming policy from the 2018 Election) from 1 July 2023.” The Paper, in fact, provides no detail on crucial aspects of the policy. In particular it leaves those most exposed to future market risk ignorant of vital information. I refer to those who own or manage the 40 to 50 independent clubs and hotels.

It is particularly disturbing that the Paper has been written in bureaucratic language and it assumes a high level of technical knowledge on the part of the reader. Without wishing to cause any offence, I would contend that this Paper is near incomprehensible to a significant proportion of those independent venue operators who will be placed at most financial, operational and compliance risk as this policy is implemented.

Since 1993 all EGM community-based venues have operated in a stable environment where the financial risks of were clear and support for understanding of the commercial and regulatory environment was provided on a fixed price, ‘whole of operation’ model by Network Gaming. In the new world all venues not owned by the Federal Group will be in an unknown market place, with unknown costs and likely at the mercy of a very few service providers. Venues outside of Hobart will be at particular risk.

Comments

The Paper leaves a large number of unanswered questions particularly relating to:

- financial risks to be borne by venues
- management of increased risk of harms to problem gamblers inherent in the model
- capacity of TLGC to oversight compliance within new model
- additional resources to TLGC/Liquor and Gaming Branch to manage risks inherent in new model
- use of additional funds to be allocated to CSL

Financial Risks

1. Venues will have to finance initial purchase/lease of EGMs/games. Presumably they will have to negotiate with Federals (who will see them now as competitors) or go to marketplace. Financing

may be difficult if venues have to borrow as the EGM licences are not owned by the venues and are not tradeable. This will likely be a major problem for small venues.

2. Venues have a large number of unknown financial risks. They will have to pay fees to the Licensed Monitoring Operator (LMO) – for both the Core Monitoring Functions and the Regulated Fee Functions. These fees will be unavoidable but will not be known until a tendering process is completed sometime between the legislation passing and the new system commencing.
3. They will have to pay the EGM Licence Fee even if they opt to have to reduce the number of EGMs they operate. This is just one factor that will encourage venues to keep EGMs in operation by all means possible and make compliance oversight/harm minimisation extremely complex.
4. Venues face a huge exposure to an unknown 'market' to obtain all the remaining services currently provided by Network Gaming. There are no other current providers of such services in Tasmania. Currently these are a 'fixed' cost for all venues but in the new model every venue/group of venues will have to source and fund their own services. There will be no incentive for Network Gaming to keep their prices low as, being a wholly owned subsidiary of Federals, they will now be dealing with each venue as a potential competitor rather than a member of the Oasis brand group.

Given that any new market entrant for this service will only have a potential market of the non casino/non Federals owned hotels EGMs there is unlikely to be much competitive interest.

Again, small/remote/regional venues will likely face much higher costs under any new service model. Network Gaming spread its costs across all venues as Federals owned all EGM licences – a market provider will charge such venues the 'real' cost of service. Venues outside Hobart (and perhaps Launceston) will face much higher service costs. Venues will likely under invest in such services and risk compliance breaches and subsequent financial penalties.

The current role of Network Gaming should not be underestimated. They played a large role in educating venues on TLGC rules and rule changes, the Mandatory Code, staff training, advertising, signage etc. The TGLC used Network Gaming as a 'single point of contact' for a large range of issues.

Harm Minimisation

The Consultation Paper's comments on harm minimisation (P.5) are pabulum. There is no recognition the new model carries an inherent risk of increased harms to at risk gamblers given that it shifts from a single 'corporate' model to about 50 venues/groups of venues now managing significantly more individual financial risk and in direct competition with each other. It does not acknowledge that the current and immediate past Chair of the TLGC expressed significant concerns about this very model when it was proposed by the industry.

Evidence from regulators in other jurisdictions where the venue licensee model exists shows far greater difficulties in enforcing harm minimisation measures and strong perverse incentives to increase EGM turnover. Those venues see repeated use of activities such as 'incentives' to play including financial/non-financial rewards, breaches of betting limits, free transport from other venues, nursing homes etc.

TLGC

The model has increased obligations on the TLGC and this is without taking into account the inevitable increased workload that will emerge from complaints and breaches of TLGC Rules and Directions. The TLGC is made up of 3 (very) part time Commissioners. The TLGC was not given any additional positions when the TGC was merged with the Liquor Licensing Board about 4 years ago. There seems to be an assumption within Government that the TLGC can provide proper governance and oversight of an ever increasing scope of responsibility with the same 3 part time Commissioner positions. Liquor and Gaming Branch Over the last decade and more increasing 'efficiencies' have been demanded of the Branch. The gaming and liquor inspectorates were merged, the number of inspectors overall has decreased and has the number of policy and support staff. Crudely, the Branch has gone from an 'inspection' model to an 'audit and complaint model'.

When Chair I agreed to these new processes and models somewhat reluctantly. The only reason I did so was that in Tasmania we were dealing with a single corporate entity that, itself, had a mature understanding of its business and had a 'reputational risk' incentive to make sure that all venues 'toed the line'. And the venues had few incentives to break the rules given their fixed financial relationship with Federals/Network Gaming and the 'big brother' oversight of all operations by Network Gaming.

That model is now to go and the Branch will be required to ensure compliance of about 50 independent venues/venue groups driven by a very different range of financial incentives and with no corporate oversight from a single corporate license holder.

On P.5 of the Paper it says: "The Government and the TLGC will closely observe and monitor the operation of EGMs in Tasmania in the restructured gaming market and will act quickly to address any harm concerns." Without significant increased resourcing of the TLGC and the Branch this claim is arrant nonsense.

CSL

Reform of the CSL should not be put aside for consideration 'at a later date'. At minimum, the core principles should be agreed before and incorporated within any 'new model' legislation. The CSL allocations have been 'distorted' on many occasions as has been noted in Parliamentary reviews, auditor general comments and correspondence between the (then) TGC and the Minister.

There is no logic or fairness in a 3% CSL on casino EGMs and a 5% CSL in hotels. The variation is not addressed or justified in the Paper. Under the 'new' model hotels (not owned by Federals) are in direct competition with all other providers of gaming 4 'services'. It is illogical to give the 2 casinos, already benefitted by massive economies of scale, an additional 1% profit advantage.

All the additional CSL funds should go to harm minimisation. When the Gaming Control Act was debated in 1993 some MPs argued that the introduction of EGMs into pubs and clubs would 'suck up' all the money that sports clubs/charities raised through chook raffles etc. Thus 50% of the CSL funds were allocated to meet that 'shortfall'. There is no need to increase that dollar amount as, theoretically that need was met with the currently available dollars. In fact, when allocations from that pool are analysed, it is clear that funds are going to bodies such as LGAs (or to purposes LGAs should be addressing) which were never intended to be beneficiaries.

The language of compulsive gamblers should be changed to 'problem and at risk gamblers'. Any 'health services' funded should be directly related to harms caused by gaming and not used for generic purpose such as Neighbourhood Houses.

The role of the TLGC should be clarified. The TLGC should provide a biennial commentary to the Minister responsible for the TLGC and the Minister responsible for the Department of Tasmanian Communities on:

- What it sees as priorities for expenditure of harm minimisation funds
- How effectively such funds have been expended in the previous 2 years. A copy of that commentary should be part of the TLGC's next annual report.

SUMMARY

This Paper 'details' a model almost identical to that put forward to Joint Committee on the Future of Gaming Markets by the gaming industry. It contains all the problematic and ill thought out issues that the industry model contained.

In my opinion implementation of this model will:

- Result in the exit from EGM operation of all remaining clubs within 2 to 3 years.
- Have the same impact on remote and small regional hotels who will be unable to negotiate viable contracts for those services previously provided by Network Gaming and, possibly, by the cost to them of 'Regulated Services' provided to them by the LMO unless these services are required to have a single, Statewide unit price.
- Place in financial jeopardy all hotels with a 'player loss per machine' of less than approximately \$150 per machine per day.
- Ensure the dominance of the larger corporate owners of groups of hotels.
- Increase the incidence of inappropriate competition between hotels for gamblers; particularly for those who gamble regularly and who lose excessively.
- Massively increase compliance costs for the TLGC and the Liquor and Gaming Branch as venues compete inappropriately for gamblers and smaller venues fail to invest adequately in staff training and in contracts with 'market' providers for services now provided by Network Gaming.