

# Response to consultation on the second review of the Responsible Gambling Mandatory Code of Practice

## Federal Group

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### Context

The Responsible Gambling Mandatory Code of Practice for Tasmania (**Code**) was first introduced in 2012 and established a range of measures to achieve gambling harm minimisation.

The *Gaming Control Act 1993* requires that the Tasmanian Liquor and Gaming Commission (**Commission**) reviews the Code at least once every five (5) years to ensure that the harm minimisation measures within it continue to be effective, relevant and sufficient.

To inform the Review, the Commission has released the Stakeholder Consultation Paper (**Consultation Paper**) that considers the Code's effectiveness in light of the Government's future gaming market reforms.

This submission represents Federal Group's written response to the Consultation Paper.

### 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 now 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.

The Tasmanian gaming industry is about to undertake its most significant change in decades with a restructure of the industry model from 1 July 2023 which includes the creation of individual venue licences to operate electronic gaming machines (EGMs). The Commission makes it clear in the Introduction to its Consultation Paper that it considers its review of the Code to be an opportunity to identify what measures are most needed now to ensure that regulation supports these gaming market reforms.

The stated purpose of the Commission's Consultation Paper is *"to seek information from stakeholders to assist the Commission to assess the Code's effectiveness and determine whether any enhancements are necessary prior to the implementation of the Government's gaming reforms"*.

### Is the Code currently effective?

As referenced within the Consultation Paper, the desktop review of the responsible gambling codes and harm minimisation policies of Australian jurisdictions conducted by Stenning & Associates in November 2021 (**Stenning Report**) concluded that the Code continues to compare favourably nationally, with most areas covered by the Code being equal to or stronger than other Australian jurisdictions. The Stenning Report also found that the Code continues to provide a broader range of controls than can be found in other jurisdictions, exceeding them in numerous areas.

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. When announcing the publication of the SEIS on 1 July 2021, 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.

In summary, the harm minimisation measures currently contained within the Code appear to be effective and are sufficient measures to continue to minimise gambling harm in the Tasmanian community.

### Are any enhancements necessary to support the future gaming markets changes?

The significant change to the Tasmanian gaming industry from 1 July 2023 involves the replacement of a single gaming operator with individual venue licences for EGMs. The Commission has shared its concern that this individual licensing model will result in an increasingly competitive gambling environment and has therefore determined to focus the

Code review on the areas of the Code relating to advertising, inducements and player loyalty programs only.

It is important to note that this review does not include measures under the future gaming market reforms that are not yet operational, such as high roller casino activities and fully-automated gaming machines. The Commission has stated in its Consultation Paper that the harm minimisation strategies for these items will be considered at a future date. Given that the future gaming markets changes that could relevantly impact upon casino activities are outside the scope of the Code review it therefore follows that any changes to the Code in response to this review should only impact gaming premises that are not casinos.

The casinos are 'destination' venues offering a wide variety of gambling and non-gambling activities and experiences for patrons. Importantly, the larger scale of casino operations enables Tasmanian casinos to provide enhanced responsible gambling protections to its patrons. The casinos have decades of proven experience in effectively managing their own compliance and have proven to the Commission over many years that they can responsibly conduct player loyalty programs and gambling advertising activities.

It therefore follows that any changes made to the Code in anticipation of, or in response to, the future gaming market reforms should not apply to casino licence holders as there is no evidence or risk-based reason to apply these changes to casino activities.

## Advertising

The Commission intends to canvass the following options to limit advertising of gaming machines on external signage/displays:

1. Ban all outdoor signage/displays advertising or promoting gaming machines; or
2. Limit the ban on outdoor signage/displays advertising or promoting gaming activities within proximity of where children frequently gather, for example, near schools, childcare centres, bus stops/shelters.

### **Advertising - Option 1**

In order to properly consider this option it is critical to understand what the Commission means by "advertising or promoting gaming machines".

Current signage relating to gambling varies across the Tasmanian gaming industry but in general, venues offering gambling products in Tasmania display a selection of the following signs, depending on their relevance to the venue:

1. The OASIS brand sign;
2. A TAskeno brand sign;
3. A TAB brand sign;
4. A "Gaming" sign;
5. A "Gaming Room" sign at the entrance to the gaming area; and
6. Signs that provide direction to the gaming area.

External information signage about the availability of gaming products is important to assist patrons to make informed choices about which Tasmanian hospitality venues they visit. This can assist people who seek to enjoy the gaming facilities offered by a gaming venue but most importantly such signage also informs people who do not wish to visit a property that offers gaming products.

If the Commission intends to ban all outdoor signage/displays advertising or promoting gaming machines such an amendment to the Code should be accompanied by a limited permission for venues to display permitted external signs as this would remove uncertainty for licensees and ensure that patrons are still informed about the presence of gambling products within a venue so they can make an appropriate choice about their visitation. The definition included in section 4(1) of the *South Australian Gaming Machines Gambling Code of Practice* is a useful starting point, which relevantly provides:

*“permitted external sign means a sign affixed to the outside of a building containing a gambling area or affixed to the outside of a permanent structure within the immediate environs of a building containing a gambling area, which is under the control of the licensee that –*

*(a) displays the licensee’s logo or name; or*

*(b) indicates the availability of a gambling activity inside the premises.”*

Given that Tasmanian planning and heritage protections laws may restrict the ability of some venues to physically affix signs to an external building or structure, an external sign should be permitted to be constructed on any part of the external business premises.

Any decision of the Commission to limit outdoor signage/displays advertising or promoting gaming machines should consider appropriate transitional arrangements for existing signage or displays as there may be considerable expense involved if existing signage is required to be removed or altered.

The Commission should ensure that it is clear that any ban they impose on outdoor signage/displays advertising or promoting gaming machines does not apply to other forms of advertising or promotion. These other forms of advertising or promotion are already subject to their own regulation under the Code (ie. online, television, radio etc).

The Commission should also ensure that venue names and business brands continue to be permitted in advertising despite any gambling related restrictions within the Code. Any restriction on the use of brand or venue names would unfairly detriment the Tasmanian non-for-profit organisations that rely upon corporate sponsorship for community and charitable purposes.

## **Advertising - Option 2**

The above comments for Option 1 are equally applicable to Option 2. In addition to those comments, Option 2 introduces the concept of ‘proximity’ which could be problematic

unless particular care is taken to ensure this is appropriately defined and reasonably capable of compliance by a venue.

There are a number of existing gambling venues in Tasmania that could be considered to be 'proximate' to where children frequently gather, including schools, childcare centres and bus stops/shelters. These businesses will need a clear understanding of how 'proximity' will be assessed by the Commission. Ideally such a definition would be based on something measurable and be simple to calculate so that venues are not required to rely upon expert advice to determine compliance.

## Inducements

The Commission intends to canvass the following options to mitigate the potential for increased gambling from inducements:

1. Prohibit venue operators from offering free vouchers (or tokens and the like) and rewards points to be used for gambling purposes;
2. Prohibit venue operators from offering free vouchers for any purpose.

### **Inducements - Option 1**

The Code currently limits free vouchers (or tokens and the like) and rewards to a maximum value of \$15 if the vouchers or rewards can be used for gambling purposes.

Whilst the Stenning Report claims that the Code requirements compare less favourably to most other jurisdictions, this is a matter of perception and interpretation. Section 2.3 of the Code limits vouchers for gaming purposes to \$15 total value but the Code is much more specific about how vouchers can be used, for example, they must also be able to be used for a non-gaming purpose and available for 30 days. Some of the other states/territories are less prescriptive and place risk-based restrictions on inducements, prohibiting their use where they encourage people to increase their intensity of betting (Queensland and ACT) or where they encourage patrons to gamble (South Australia).

The evidence available does not strongly support a contention that all inducements increase problem gambling. It is accepted that the nature of some types of inducements may be more likely to lead to problem gambling or exacerbate existing problem gambling issues and that these types of inducements should be prohibited. Regulation should focus on ensuring that inducements and rewards are used responsibly and in a low-risk manner by the gaming industry.

With Option 1 the Commission is considering a ban on the use of free vouchers or rewards for gambling purposes. This change steps away from the current approach which permits inducements and rewards to be used for gambling purposes in a low-risk and controlled manner. In its Consultation Paper the Commission has not clearly enunciated how it believes that the current restrictions on inducements and rewards within the Code will become less effective with the implementation of an individual licence model for hotels and clubs. Any

decision to further restrict the use of vouchers and rewards for gambling purposes should only be based on evidence. If the Commission has evidence that the current Code is or will be insufficient to prevent inducements that encourage a patron to increase their intensity of betting then this regulatory outcome could be effectively achieved by prohibiting this behaviour within the Code, in a similar fashion to Rule 6.2 of the Commission's existing *Premium Player Program Rules (Pre-Commitment)*.

The casinos need to be differentiated from hotels and clubs. Player loyalty programs have operated at the casinos for many years and the casinos have demonstrated to the Commission that these programs can be operated in a low-risk and responsible manner. The casinos have learned through their own experience that a player loyalty program provides a significant amount of data relating to a member's gambling and visitation activities. This information now forms an essential part of the casinos' responsible gambling monitoring program, but the effectiveness of this data requires casino customers to be incentivised to record their gambling activities on their membership card. Critically, the current measures within the Code provide a low-risk way of rewarding casino customers for their ongoing participation in the casino loyalty program whilst incentivising carded play.

The Commission has stated that the Code does not apply to the operation of a Premium Player Program (PPP) conducted by a casino operator. If the Commission was to make any changes to the Code that would alter the ability of the casinos to reward the members of the PPP then these could have a significant impact and should be separately raised with the casinos for further discussion.

## **Inducements - Option 2**

Option 2 is to prohibit venue operators from offering free vouchers for any purpose. There is no evidence or risk basis for this level of restriction to be applied to venue operators and no other Australian state or territory has considered such a prohibition to be necessary or desirable.

Prohibiting venues who are subject to the Code from offering any form of free vouchers disadvantages gaming venues for no apparent risk-based reason. Hotels and clubs that offer gaming also offer other products and services and the viability of these businesses is in part dependent on their ability to compete for their share of the market for the non-gaming parts of their business. This is particularly the case for larger venues, such as the casinos, that offer entertainment and accommodation services.

The practice in other states is to allow vouchers to be offered but to put risk-based limitations on their use. For example, in New South Wales and Queensland vouchers are unable to be redeemed for cash or gambling credits. In the Australian Capital Territory inducements that encourage people to increase their intensity of betting are prohibited.

Federal Group has extensive experience offering a player loyalty program within its Tasmanian casinos. Based on this experience, a player loyalty program with a ban on offering free vouchers for any purpose will have the effect of making these programs entirely undesirable to patrons. There is a privacy trade-off for loyalty program members

when they agree to share information about their financial expenditure with a business. If members cannot be meaningfully rewarded for recording their expenditure on their member card there is no incentive for the member to use their membership card, especially when gaming. A complimentary beverage or snack is a valuable reward for some members and importantly provides an incentive for those members to take a break from gambling.

Federal Group submits that the existing requirements in the Code are sufficient and appropriate to minimise any problem gambling harm that may be associated with the issue of free vouchers.

### Player Loyalty Programs

The Commission also intends to review the player loyalty program with the aim of:

1. Determining what measures are required to ensure a loyalty program offered by a venue operator or third party does not lead to increased gambling, for example, prescribing the accumulation points that can be awarded (eg. 1 point per \$1 spend).

Many of the points outlined earlier in this document about inducements and loyalty program rewards are also relevant to this area of the Commission's review as loyalty rewards and benefits are a core component of any loyalty program.

Federal Group is not aware of any evidence that prescribing the accumulation rate for loyalty program points would be an effective measure to ensure a loyalty program offered by a venue operator or third party does not lead to increased gambling.

The Commission should also continue to keep in mind that player loyalty programs operated by gambling venues are much broader than gambling activities and many members consider the non-gaming aspects of a loyalty program to be an important part of their customer experience when visiting the premises.