

Second Review of the *Responsible Gambling Mandatory Code of Practice for Tasmania*

Stakeholder Consultation Paper

May 2022

Second Review of the *Responsible Gambling Mandatory Code of Practice for Tasmania* - Stakeholder Consultation Paper

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Introduction

The Tasmanian Liquor and Gaming Commission is an independent body responsible for the regulation of gaming and wagering activities in Tasmania. The Commission is committed to fostering the responsible service of gambling and ensuring the harm from gambling is minimised.

Ten years ago, the Commission introduced the *Responsible Gambling Mandatory Code of Practice for Tasmania* (the Code) setting out a variety of measures to minimise gambling harm in the Tasmanian community and provide a best practice approach to gambling regulation for Tasmanian circumstances. A copy of the Code is available from the Department of Treasury and Finance website at www.treasury.tas.gov.au/liquor-and-gaming > Quick links > Responsible Gambling Mandatory Code of Practice.

The *Gaming Control Act 1993* requires that the Commission reviews the Code at least once every five years ensuring the harm minimisation measures continue to be effective, relevant and sufficient. The first review in 2017 included independent desktop research comparing Tasmania's framework against national and international jurisdictions, and an extensive stakeholder consultation process. While the Code was found to be effective in achieving harm minimisation objectives, the Commission implemented a number of enhancements to further ensure gambling is offered in a responsible way.

The Tasmanian gaming environment will undergo significant changes with restructure of the industry from 1 July 2023 to implement the Government's future gaming market reforms. The changes include the creation of individual venue licences to operate electronic gaming machines (EGMs). The Commission considers this second Code review provides an opportunity to identify what measures are most needed now to ensure regulation supports the new reforms.

In late 2021, consultancy firm Stenning and Associates Pty Ltd completed desktop research comparing Tasmania's Code with harm minimisation frameworks in other Australian jurisdictions, including identifying key changes since the 2017 review and potential improvements to the Code that could support the future gaming market reforms. A brief summary of the desktop research is provided in Attachment A. A copy of the full Stenning Report is available at www.treasury.tas.gov.au/liquor-and-gaming > Community Interest > Public consultation > Current consultations.

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

Following this stakeholder consultation process, the Commission will prepare a report of the Code review findings and outcomes and then release an updated version of the Code. The Commission does not envisage any further consultation.

Separate to the Code review, the Commission has recently consulted on the extent to which facial recognition and player card-based gaming technologies for gaming machines could minimise gambling harm, including the costs and benefits of implementing in casinos, hotels and clubs. This will inform a separate report for the Minister on the outcomes of the Commission's investigation and recommendations to implement these technologies.

Stakeholder Submissions

The Commission invites interested parties to comment on some or all of the proposed harm minimisation initiatives outlined in this Paper.

Submissions must be received by **25 June 2022** and lodged in writing by email to consultation.lagb@treasury.tas.gov.au or mailed to:

Ms Melissa Ford
Assistant Director
Liquor and Gaming Branch
Department of Treasury and Finance
GPO Box 1374
HOBART TAS 7001

All submissions will be treated as public documents and will be uploaded to the Department of Treasury and Finance website at www.treasury.tas.gov.au/liquor-and-gaming > Community Interest > Public consultation > Closed consultations, unless the submission is clearly specified as confidential¹ (in full or part).

Should you have any queries please contact Annette Kingston on (03) 6145 5738 or email annette.kingston@treasury.tas.gov.au.

¹ Automatically generated confidentiality statements in emails do not suffice for this purpose. Any requests received under the *Right to Information Act 2009* to make available submission/s marked 'confidential' will be determined in accordance with that Act.

Background

The Code

The *Responsible Gambling Mandatory Code of Practice for Tasmania* establishes rules under which venue operators can offer gambling related products to patrons across the following 10 areas that are prescribed in the *Gaming Control Act 1993*:

- advertising;
- inducements;
- player loyalty programs;
- access to cash;
- payment of winnings;
- lighting;
- service of food and alcohol;
- clocks in gaming areas;
- staff training in recognising people with gambling problems; and
- information to players.

The Code is restricted to these matters only.

The Code is the overarching regulatory guide in relation to harm minimisation. A set of Commission Rules supporting the Code describes how the harm minimisation practices must be implemented. Compliance with the Code (and Rules) is mandatory for all relevant prescribed licence holders under the Act and non-compliance can result in disciplinary action.

The Code does not apply to the operation of a Premium Player Program conducted by a casino operator and approved by the Commission. The Commission recently reviewed this program and introduced rules for mandatory pre-commitment effective from September 2021.

Future Gaming Market Reforms

Amendments to the Gaming Control Act were passed by Parliament in November 2021 to reform the licensing structure for gaming in Tasmania, as well as other changes to create a new gaming environment from 1 July 2023. These reforms include:

- a decrease in the state-wide EGM cap by 150 machines;
- individual venue licences for the operation of EGMs in hotels and clubs;
- two new high roller non-resident casino licences;
- establishment of a separate Licensed Monitoring Operator to monitor the hotel and club EGM network;
- introduction of fully automated table gaming in casinos;
- operation of simulated racing events in approved totalizator locations;
- redistribution of returns from gaming; and
- an increase in the Community Support Levy to improve harm minimisation.

Information on the new venue licensing model is available at www.gaming.tas.gov.au.

The Stenning Report analysed the expected impacts of the reforms on gambling behaviour. Overall, it appears there is unlikely to be a major impact on gambling behaviour as the reforms are predominately structural in nature. However, individual venue licensing is likely to create a more competitive environment, which could result in:

- hotels and clubs adopting a variety of approaches to attract gambling customers as they seek to cover costs associated with the new arrangements; and
- increased advertising and inducement activities and player loyalty programs; and
- this in turn may result in an increase in gambling on EGMs in hotels and clubs.

Scope of the Review

The 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 Commission is not surprised by the research findings as the framework uses best practice measures that in combination make the most impact in minimising gambling harm.

In determining the scope of the Code review, the Commission took into consideration the:

- timing of amending the Code prior to substantive gaming industry reforms;
- comprehensive nature of the first Code review;
- investigation being undertaken by the Commission (under direction from the Government) on facial recognition and player card gaming technologies to potentially minimise gambling harm in Tasmania; and
- outcomes from the NSW inquiry and two Royal Commissions (VIC, WA) into casino gaming operations.

The Commission is mindful that this five-yearly review is occurring at a unique point in time as the gaming industry is about to undergo significant reform, replacing a single gaming operator model with individual venue licences for EGMs. The Commission will monitor very closely how venues operate under their new responsibilities and that compliance is being achieved.

The Stenning Report raises concerns that the new individual venue licensing model, and resulting increased competitive gambling environment, may lead to increased promotion and gambling on gaming machines. Increased gambling promotion could be detrimental to the welfare of players and also threatens the sustainability of each gambling business. This concern is shared by the Commission and it has determined a proactive approach is required to consider precautionary measures in the context of the future gaming market. For these reasons, the Commission has determined to focus this review on the areas of the Code relating to advertising, inducements and player loyalty programs only.

This review does not include measures under the future gaming market reforms that are not yet operational. The requirements and technical standards for high roller casino activities, fully-automated gaming machines and simulated racing events will first need to be developed. The Commission will then be in a position to consider any harm minimisation strategies that fall within the Code prescribed areas that may be needed to ensure these new gambling products are conducted in a responsible way.

Harm minimisation initiatives for consideration

Under the individual venue licence model, venue operators will be responsible for almost all aspects of EGM operations in their venue, will have a greater choice of how to conduct their gaming business and will retain a greater share of EGM revenue.

The Stenning Report indicates the new model may lead to venue operators adopting a variety of approaches to attract gambling customers through increased diversity in advertising, inducement activities and player loyalty programs. The Commission is considering making enhancements to these areas of the Code prior to the Government's gaming reforms taking effect in July 2023. These initiatives are intended to strengthen player protection but require further consideration as to their effectiveness and any operational issues with implementation.

The Commission invites respondents to comment on some or all of the proposals below. Please provide sufficient details and any evidence to support your responses.

Advertising

Current objective

Licence holders must ensure that gambling advertising is conducted in a manner that takes account of the potential adverse impact that it can have on minors, people at risk of gambling harm or experiencing gambling problems, and the community.

Current measures

Overall, measures for advertising largely provide parameters for what can and cannot be considered when promoting gambling products and ensure particular groups, such as children, are not targeted.

There are no restrictions on the location of advertising (although television and radio advertising is prohibited during specific times of the day). Measure 1.13 of the Code requires advertising of gambling products to include a standalone responsible gambling message and must be to a size and form approved by the Commission as set out in the Gambling Product Advertising Standards. A copy of the Standards and supplementary Fact Sheet are available at www.treasury.tas.gov.au/liquor-and-gaming > Gambling > Regulatory requirements > Rules.

Discussion

The 2017 Code review discussed potential initiatives relating to limiting EGM advertising on premises. The Commission is revisiting this issue as the future reforms move from a single gaming operator to multiple licensed venues suggests an increased competitive environment, which could potentially see venues seek to offer promotions and inducements to attract customers. The Commission is concerned that the potential for prolific advertising of gaming machines will increase gambling harm.

While more empirical research is needed regarding the impacts of specific measures, there is evidence that advertising of gambling products normalises gambling, particularly heightened for children and young peopleⁱ. There is also some evidence that advertising may maintain or exacerbate already existing gambling problemsⁱⁱ. The 2010 Productivity Commission Report also noted advertising restrictions are premised on concerns that advertising can normalise the perception of gambling thereby encouraging more people to gamble, and children are particularly susceptible to advertising.ⁱⁱⁱ

The Stenning Report notes the following jurisdictions have stronger restrictions than Tasmania regarding advertising of gaming machine products:

- Australian Capital Territory prohibits external signs advertising gaming machines or promoting gambling activity on the licensee's premises.
- New South Wales prohibits publishing of any gaming machine advertising.
- Queensland requires that gaming does not dominate external signage on the licensee's premises or marketing or promotional activity for the licensed premises.
- South Australia prescribes that, unless a licensee is party to a responsible gambling agreement, gambling advertising is prohibited on their premise exterior and also interior except for material in gambling areas and directional signage.
- Victoria prohibits publishing gaming machine advertising outside the game machine area of hotels and clubs, and for casinos outside the boundaries of the casino.^{iv}

The Northern Territory is currently seeking public feedback on amending the NT Code to ensure no advertising of EGMs outside of venues.^v

The Commission considers this is an opportune time for a broader review of the Advertising Standards and supplementary Fact Sheet across all gambling areas. These documents have not been reviewed since the Code was first introduced and over this decade, the industry and public expectations have evolved considerably.

While not part of this consultation, the Commission is implementing 10 consumer protection measures under the National Consumer Protection Framework for online wagering. One of these measures is the development of evidence-based nationally consistent responsible gambling messaging by late 2022. The research suggests the messaging is suitable for broader gambling settings than online and the Commission will adopt similar safe gambling messaging in its Advertising Standards, where appropriate. This will include the size and form of the 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, child care centres, bus stops/shelters.

The following points are offered as guidance when considering these initiatives:

- What are the benefits or harms caused by allowing venue operators to advertise gaming machines external to the premises? Are children and other vulnerable persons appropriately protected from the potential harms?

Inducements and Player Loyalty Programs

Current objectives

Licence holders must not provide specific inducements that may lead to problem gambling or exacerbate existing gambling problems. This includes persuading people to gamble when they wouldn't gamble normally or gamble outside of their normal gambling patterns.

This also applies to player loyalty programs, which are defined under Commission Rules as a formal arrangement that provides rewards to patrons for participating in gambling at the premises.

Current measures

Overall, current measures for inducements largely restrict the type and value of vouchers that can be offered to patrons and other incentives such as alcohol and obtaining prizes. For player loyalty programs, additional harm minimisation measures include player activity statement requirements, accumulation of rewards points and prohibiting gambling related contact in prescribed circumstances.

The maximum value of free vouchers that can be used for gambling purposes is \$15 including the total for multiple vouchers offered at the same time. The vouchers must be redeemable for services other than just gambling, for example, accommodation, dining or entertainment. The same value applies to rewards offered to members of a player loyalty program which can be used for gambling purposes.

Discussion

The maximum value of free vouchers and rewards points increased from \$10 to \$15 following the 2017 Code review. Nevertheless, the Commission made clear at that time that a venue can reward its patrons in any number of ways unrelated to gambling activity. Vouchers or tokens that allow the player to add to gambling investment are not designed to reward for loyalty but are simply ways to encourage further gambling, e.g. through an extended time at the machines. There is still no argument that convinces the Commission that this is desirable.

There are no player loyalty programs currently operating in hotels and clubs. The gaming operator administers the "Oasis Rewards Club", which in its current form is not linked to amounts of money spent on gaming machines or keno. The future reforms contemplate increased inducement activities and that player loyalty programs could potentially be run by third parties (i.e. captured as auxiliary services on the Roll). For this reason, the Commission intends to review inducements and the complete player loyalty program framework.

The Productivity Commission (2010) noted inducements that are likely to lead to problem gambling or exacerbate existing problems should be prohibited. It also noted advantages of player loyalty programs particularly for obtaining data to be used for gambling analysis (as a means to implement pre-commitment strategies).ⁱⁱⁱ However, more recent research suggests industry has reportedly used pre-commitment systems to target loyalty programs to "entice players into further expenditure".ⁱ

The Stenning Report found that Tasmania's inducement and loyalty program provisions compare less favourably to most other jurisdictions. The following jurisdictions currently restrict the type of inducements that can be offered to players of gaming machines:

- Australian Capital Territory prohibits any inducement that encourages people to increase their intensity of betting.
- New South Wales prohibits offering of any free credits as an inducement to gamble, and prohibits hotels and clubs permitting any bonus or rewards points accumulated under a player reward scheme to be redeemed for cash.

- Queensland prescribes inducements linked to an advertisement as unacceptable including for player loyalty programs, such as advertising offering free money or credit for the purposes of gambling.
- South Australia prohibits any inducement directed at encouraging patrons to gamble (excludes player loyalty programs and offering complimentary non-alcoholic beverages/refreshments of a nominal value). Unless a licensee is party to a responsible gambling agreement, participation in a loyalty program must include a pre-commitment program.
- Victoria prohibits non-cash gaming tokens as an inducement to gamble and loyalty schemes (that are not provided by a venue or casino operator) must provide both gaming and non-gaming points equally.^{iv}

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; or
2. Prohibit venue operators from offering free vouchers for any purpose.

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

3. 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 (e.g. 1 point per \$1 spend).

The following points are offered as guidance when considering these initiatives:

- What are the benefits or harms of promotional offers like free vouchers? Are there different considerations for player loyalty programs?
- What measures could the Commission introduce to mitigate its concerns about competitive behaviour between venues and increased gambling?

Attachment A - Summary of desktop research by Stenning and Associates

The Stenning Report, *Responsible gambling codes and harm minimisation policies of Australian jurisdictions - A Desktop review*, provides an analysis of the Code measures against comparable gambling controls of other Australian jurisdictions. It also identifies key changes since the first Code review in 2017 and examines what protection initiatives could be adopted in Tasmania to support the Government's future gaming market reforms taking effect from 1 July 2023.

Analysis of the key differences between Tasmania's measures and other jurisdictions showed that the Code continues to compare favourably nationally, with many of Tasmania's protection controls not prescribed by other Australian jurisdictions or going beyond the scope of the controls in other jurisdictions. There are some controls in other jurisdictions that have no equivalent control in the Tasmanian Code or went further in scope.

Since the 2017 review, there has been a moderate level of change to harm minimisation and responsible gambling regulation nationally. New South Wales and South Australia were the most active, implementing a number of reforms through legislative amendments. South Australia also introduced the Gaming Machines Gambling Code of Practice containing similar controls as Tasmania. Victoria was also active in implementing legislative reforms aimed at prohibiting inducements and betting advertising.

All jurisdictions have implemented the first six measures of the National Consumer Protection Framework for Online Wagering. These are: prohibit the provision of credit to customers and the promotion of small amount credit contracts; reduced timeframes to verify customer identity on account opening; restrictions on offer of inducements to open an account; a simple account closure process; an opt out pre-commitment scheme for setting deposit limits. Three jurisdictions (NSW, SA and ACT) have applied some of these measures more broadly to other types of gambling activity (not only online wagering).

Analysis of the potential impacts on the future gaming market reforms concluded that, overall, there is unlikely to be a major impact on gambling behaviour. However, there may be an impact on the behaviour of individual venue licensees to adopt a variety of approaches to attract gambling customers, such as increased diversity in advertising, inducements and player loyalty program activities.

Attachment B - References

- ⁱ Livingstone, C. et al 2019. *Identifying effective policy interventions to prevent gambling-related harm*, Victorian Responsible Gambling Foundation, Melbourne.
- ⁱⁱ Binde, P 2014. *Gambling advertising: A critical research review*, Responsible Gambling Trust, London.
- ⁱⁱⁱ Productivity Commission 2010, *Gambling*, Report no. 50, Canberra. Available at: www.pc.gov.au/inquiries/completed/gambling-2009/report
- ^{iv} Stenning & Associates 2022. *Responsible gambling codes and harm minimisation policies of Australian jurisdictions - A Desktop review*. Available at www.treasury.tas.gov.au/liquor-and-gaming
- ^v Paterson, M. et al 2019. *Review of NT Code of Practice for Responsible Gambling*, Centre for Gambling Research, Australian National University. Available at <https://industry.nt.gov.au/news/2022/march/public-feedback-wanted-on-proposed-changes-to-gambling-code-of-practice>