

Gaming Machine Arrangements Review Consultation Paper Response Form

Interested persons and organisations are encouraged to make a submission on all or any matters raised in the Gaming Machine Arrangements Review Consultation Paper.

While the department is particularly interested in responses to the questions posed throughout the Consultation Paper, submissions need not answer these questions and may address other related issues.

This response form reproduces the questions posed throughout the Gaming Machine Arrangements Review Consultation Paper.

The department welcomes use of this form in part or in full. It is not a requirement for submissions to use this form.

The preferred method of submitting responses is online via the Department of Justice & Regulation's website. Submission may also be forwarded, in writing, to:

Post: Gaming Machine Arrangements Review
Office of Liquor, Gaming and Racing
PO Box 18055
Collins Street East
MELBOURNE VIC 8003

or

Email: olgr.gmar@justice.vic.gov.au

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Please note:

All submissions will be published on the Department of Justice and Regulation's website.

You should therefore ensure that your submission does not include confidential, commercial-in-confidence or personal information.



This submission has been prepared to inform the Gaming Machines Arrangements Review of the position of Victorian Primary Care Partnerships (Vic PCP) in relation to the future operation of EGMs in Victoria.

This submission particularly focuses on the health and wellbeing implications of EGM gambling in Victoria and ways in which a public health framework might apply to the future regulation and operation of EGMs. Primary Care Partnerships (PCPs) have been working for the last 8 years to reduce harm from gambling and increase access to support and referral processes. Historically this work was funded by the Department of Justice and it now continues with funding from the Victorian Responsible Gambling Foundation.

Primary Care Partnerships (PCPs) are a health platform set up and funded primarily by the Victorian Department of Health. The PCP platform seeks to ensure that services and systems operate effectively in Victoria to maximise access to and outcomes from the primary health sector. Across Victoria, over 800 health, community and local government organisations are members of their local Primary Care Partnership.

The significance of the intersection between gambling and health is increasingly being researched and gambling is now being understood to be a major public health issue. As such, it demands an evidence based public health response. Harm from electronic gaming machine (EMG) gambling is serious and preventable. The Gaming Machines Entitlements Review offers the government significant opportunities to ensure that we build a Victoria free from gambling harm. The benefits of such an approach to the future health and prosperity of the State cannot be underestimated.

In preparation for this submission, staff from PCPs have working in the gambling space have had an opportunity to input and contribute feedback.

This submission will not answer every question that is posed as part of the consultation process but will focus on the questions where we have most knowledge and experience.

We are very happy to be contacted further about this submission.

Questions: Gaming Machine Arrangements Review

Q.1. Do you think that the venue operator model is meeting the three objectives listed and why? How do you think the venue operator model could better achieve its objectives?

The current venue operator model is not adequately meeting the listed objectives.

The intention of a venue based model was to ensure that the financial benefits of gaming are fairly and more broadly distributed to the Victorian community, however, the new model has resulted in the same small group of people in the community (owners) getting access to all of the financial gains. Under the venue operator model, taxation revenue that the government derives has not increased so there has been no additional government investment in community services or infrastructure which might have resulted in a genuine broader community benefit.

In addition, the auction process resulted in licences being sold well below their value which meant that the community was short changed in terms of benefit which might have flowed from the State collecting an increased amount.

The second objective of the new model was to ensure high standards of probity through a strengthened Victorian Commission for Gaming and Liquor Regulation (VCGLR) and an independent monitoring system to ensure integrity and transparency of gaming venues. This objective has not been realised as evidenced by a lack of integrity and transparency in the way in which clubs claim community benefits and in the way decisions about licences are made by the VCGLR.

Community groups have been locked out of this process and their knowledge and understanding of local communities has often been ignored. PCPs highlighted the need for the establishment of an agreed schedule of data sets which measure community vulnerability risk and resilience factors to assist VCGLR and other bodies to make planning decisions.

The third stated objective of the model is to provide opportunities for venue operators to better respond to consumer demand and choice. Our member agencies and local communities feel strongly that placement of poker machines is not being driven by consumer demand. Indeed community views on the placement of machines have been largely ignored. Rather, machines have been placed strategically in locations where they are able to attract the highest losses thereby causing high levels of harm to communities that are already under stress and experiencing poorer health outcomes.

Q.2. Do you think the current distribution limits are appropriate? If not, what changes would you suggest and why? You can comment on any or all of the distribution limits identified.

The current state cap is too high. The cap should be reduced in the next licence term to reflect lower numbers of Victorians using EGMs. The recently published *Study of Gambling and Health in Victoria* (Hare, 2015) found that participation rates for EGM gambling have declined from 21.46% in 2008 to 15.22% in 2014. For this reason, fewer machines should be licenced to cater for declining demand. This would ensure that at-risk Victorian communities are better protected from EGM related harm.

The cap was introduced in response to community concerns about the rapid growth in gaming machine numbers and the harms being caused by this form of gambling. These concerns remain. Most Gamblers Help Services in Victoria belong to their local PCP and they report that EGM gambling continues to be the primary contributor to referrals for their services (reports from services suggest poker machines are the primary means of gambling of 75-80% of people referred).

The decline in Victorians using EGMs has not resulted in, losses going down commensurately which suggests that harm is being more and more concentrated among a smaller group of people. For this reason, it would be appropriate to reduce EGM numbers.

The per venue limit of 105 gaming machines is strongly supported with many PCP stakeholders suggesting a reduction would be appropriate. Larger venues, particularly hotels, have been shown to cause more harm and typically have higher per machine losses. Allowing venues to grow beyond 105 EGMs would be likely to result

in higher rates and severity of gambling problems and would be counter to good public health policy.

Vic PCP supports the maintenance of the status quo in relation to the club – hotel limits. Hotels consistently have higher losses than clubs and limits must be maintained to ensure that their market share does not increase.

With respect to regional caps, we share the view of many of our local government members that no municipality have an EGM density of more than 20% above average Victorian EGM density (ie if the average density of machines in Victoria was 6 EGMs / 1000 adults, no municipality would be allowed to exceed a density of 7.2 EGMs / 1000 adults.) This would ameliorate the current situation which has seen harm is concentrated in areas with lower SEIFA scores and other risk factors for harm from gambling.

Q.3. Are the ownership restrictions appropriate? If not, should they be increased or decreased, and why?

The current ownership restrictions should be strengthened to prevent a small number of large venue owners being able to dominate EGM ownership in Victoria and gain even more political influence over government policy on EGMs than the EGM industry currently has. These large venue owners often prioritise financial returns over community risk or social issues.

With regards to hotel ownership restrictions, 35% is a very high proportion of EGMs for one individual or business. From a public policy perspective, it is unhealthy when one group has this level of control over a harmful consumption product. Such concentrated ownership can result in large entities in the gambling industry being able to exercise undue influence over government gambling policy and legislation. This has been a major lesson from Australia's successful public health campaign to reduce tobacco related harm.

There is a strong public interest in keeping entities in the EGM industry small. Furthermore, EGMs in hotels have consistently been associated with higher levels of harm from gambling than EGMs in clubs. This has been reinforced by findings of the 2014 Study which showed significant jumps in the numbers of "moderate risk" and "problem" gamblers who are gambling in hotels and pubs between 2008 and 2014 (Hare, 2105).

The restriction on the Melbourne casino operator holding EGM entitlements in hotels and clubs should be maintained to prevent undue influence over Victorian Government policy on gambling. Such influence is apparent in the current requirement for the Victorian Government to pay compensation to Crown Casino if any measures to reduce the harm from gambling result in a fall in the casino's revenue. This is a very poor public health outcome for Victoria.

Q.4. Should different ownership restrictions apply to hotel entitlements and club entitlements and, if so, why?

Vic PCP is supportive of lower ownership restrictions overall as identified above. We believe this position is consistent with healthy public policy. Given the high number of people who experience harmful EGM gambling in hotels, consideration of a lower limit of ownership per hotel venue should be considered. Additional restrictions should be introduced for venues that are located in shopping centres and shopping strips given the harm associated with venues in such locations.

Q.5. What mechanism should be used by the government to obtain its share of the value of gaming machine entitlements, for example, taxation, premium payments or other mechanisms?

The best mechanism for the government to obtain its share of the value of gaming machine entitlements is via a progressive taxation regime. The current system could be strengthened by adding a disincentive for machine owners to maximise profits at the expense of people experiencing harm. Some kind of additional tax for venues where the average per machine loss is over \$180,000 (\$15,000 per month) would lead to improved public health outcomes because it would act as a powerful disincentive for venue operators to maximise profits at the expense of community members. When machine losses exceed this level, it is our opinion that they are overwhelmingly being derived from people experiencing addiction. Such a tax would apply to a small number of operators (often those located in shopping centres) where rates of harm generated by EGM use are high. Whilst taxation revenue generally provides a benefit to the state and community, the costs associated with harm from gambling undermine this benefit.

Q.6. Does the progressive tax structure provide for a fair distribution of the revenue from gaming machines?

A progressive tax structure is the best and fairest way for the Victorian government to collect tax from EGM losses.

Q.7. Should the tax bands or rates in the progressive tax structure be varied, and if so, how and why?

Yes, a fourth tax band should be introduced for venues where the average monthly machine loss is \$15,000 or above. As outlined in question 5, this would be consistent with healthy public policy and would enable the state to recoup some of the high costs associated with harm from gambling in the community.

The differential between hotels and clubs should be scrapped. The process has been lacking in transparency, created an unnecessary administrative burden and clubs have demonstrated low capacity to spend the 8.3% on genuine community benefit. They should therefore be taxed at the same rate as hotels.

Q.8. Is there an alternative tax structure that should be considered?

We are alert to the possibility that some venues might try and avoid the higher tax rates at the higher loss per EGM by carrying extra EGMs that they know will not add much revenue but will reduce the tax bracket they are subject to. Applying for additional licences to reduce tax should be acknowledged as a major "disbenefit" in any assessment made by the VCGLR in applying the net detriment test.

Q.9. Should the tax differential for clubs and hotels be maintained and, if so, why?

While it is apparent that EGMs in club venues cause less harm than EGMs in hotels, we oppose the tax break currently granted to clubs. Club venues already benefit from the protection of getting 50% of EGM entitlements. The current tax break for clubs appears based on the false assumption that club venues are better at spending money for the benefit of the community than the Victorian Government. A review of community benefit statements reveals that is clearly not the case. PCP membership comprises over 800 health and community organisations around the State, yet the amount of "community benefit" that flows to our member agencies is laughable. Furthermore, in the main, PCP agencies would be very reluctant to receive money derived from EGM losses because to do so would be counter to accepted public health principles of not receiving donations from unhealthy consumption products. In addition, our members understand that a significant proportion of these losses are derived from people who are experiencing significant harm as a result of their gambling.

The Victorian Government should receive the additional tax and could spend extra revenue in areas such as health, education and community services. This would be far more valuable to the Victorian community than leaving that money with the club venue owners, who in many cases have spent to money on day to day operations.

If the government decides to maintain the tax differential, clubs should only be able to benefit if they make cash donations to organisations with registered DGR status or grassroots sporting, social or community groups NOT affiliated with the club venue. However, Vic PCP considers this to be a less desirable outcome from a public health perspective.

Q.10. Should changes be made to the way clubs are required to demonstrate their community benefit?

Yes, as above. If the tax differential is maintained (and we believe it should be scrapped) then clubs should only be able to claim cash donations made to organisations with registered DGR status or grassroots sporting, social or community groups NOT affiliated with the club venue.

Q.11. Should any future gaming machine entitlements be issued for a 10-year term, a shorter or longer fixed term or in perpetuity and why?

Vic PCP believes a 10-year term for EGM entitlements is about the right length of time between reviews of entitlement arrangements. A 10-year term provides a balance between venue operators having certainty on their capital investments, while not locking the State of Victoria (and its people) into a particular model that may prove to be flawed.

Granting licences in perpetuity would be counter to good public health practice. Evidence is constantly emerging about ways to reduce harm from gambling. It is important that the government create a system which will enable it to act on such evidence in the future without risk of penalty or compensation claims by industry. It is not possible at this point in time to anticipate the full suite of harm minimisations measures that may be supported by evidence obtained from research in the future. Australia's obvious success in other public health campaigns (road safety, tobacco, etc) have taught us that effort to reduce and prevent harm must be sustained over time, informed by evidence and rigorously evaluated. Offering licences beyond a ten year period would mitigate achieving the type of public health outcomes that would otherwise be possible and would therefore be counter to healthy public policy.

It is possible that the venues most impacted by a 10 year licence, assuming there is any impact at all, would be those that are most dependent on EGM revenue as part of their operations. Thus, extending the licence beyond ten years might perversely reward those venues most dependent on EGM revenue, rather than those that have diversified their activities to reduce their dependence on EGM revenue. This is contrary to the public interest, advancing the position of venues seeking to maximise their EGM revenue with the potential of maximising the harm the operation of their EGMs are causing amongst their gambler population. An alternative option would be for the government to encourage venues to reduce their reliance on EGM revenue and diversify their operations.

Finally, Vic PCP notes that the gaming industry is requesting a level of certainty not enjoyed by the community services sector in Victoria where agencies are typically on 3 year contacts. Ironically, Gamblers' Help services have only three year contracts. The standard time for ceasing these contracts is a mere three months. There is therefore a disparity between the EGM industry arguing that they need certainty beyond 2022, when many community service agencies do not have such certainty beyond 2017.

Q.12. What type of allocation process would be appropriate to allocate any new gaming machine entitlements and why?

Vic PCP does not support the issuing of new gaming machine entitlements.

Q.13. How should the price of any new gaming machine entitlements be determined and why?

There should not be any new gaming machine entitlements.

If the government does issue new entitlements, a moderate price should be determined based on the value of entitlements by location and venue type as outlined in question 12. If there is greater demand than entitlements available, allocation should be on the basis of those venues most willing to implement harm minimisation strategies over and above those required by the responsible gambling regulation.

Q.14. Should the price of any new gaming machine entitlements be paid by way of a premium payment, be factored into the tax rate or be via another payment option? Please explain why.

A progressive tax regime is the best way for the government to collect a portion of gaming machine losses.

Q.15. If premium payments are required, what are the preferred terms for those payments and why?

No comment

Q.16. Are there any improvements that could be made to the transfer market?

No comment

Q.17. Should the State extract a share of any increased value of entitlements through the transfer market and, if so, how?

No comment

Q.18. Do you have any suggestions to improve the regulatory framework for gaming machines?

Limiting the availability of cash out in venues via EFTPOS

Data on use of EFTPOS from the 2014 Study of Gambling (Hare, 2015) revealed that people responding to questions in a way that put them in the problem and moderate risk gambling category were far more likely to get cash out than people who do not experience harm. When “non-problem” gamblers did get cash out, the mean withdrawal was \$65.56. Mean frequency of cash withdrawal was 0.14. Mean withdrawals for “problem” gamblers were \$317.93 with a withdrawal frequency of 3.46 per visit. Availability of EFTPOS is clearly exacerbating harm. From a public health point of view there is now a very strong case for limiting cash withdrawals to a one-off maximum withdrawal of \$100.

Reducing maximum bets on Electronic Gambling Machines to one dollar per spin

Based on the available evidence, it appears that a reduction of maximum bets to one dollar would have little effect on so-called 'recreational' gamblers and would have a positive effect for 'problem' gamblers who consistently bet at levels above one dollar. (Productivity Commission, 2010)

Amend the Gambling Regulation Act 2003

There are numerous improvements that should be made to decision making processes of the VCGLR. The Gaming Regulation Act 2003 should be amended to:

- require decision-makers at the Victorian Commission for Gambling and Liquor Regulation (VCGLR) to consider the social and economic impacts of increasing densities of EGMs in vulnerable communities at the local level or census collection district level
- require community benefits to be genuine and benefit those at most risk of harm from EGM gambling. The applicant would also be required to prove that there is a positive community benefit from increasing the number of EGMs, as opposed to the current 'will not be detrimental' test.
- prohibit applications for new or increased numbers of EGMs in local communities (at suburb or statistical local area level) with below-average socio-economic indexes for areas scores where the EGM density is currently above, or will become above, the state average

Vic PCP supports specific amendments as proposed by the Victorian Local Governance Association and the Municipal Association of Victoria.

References:

Hare, S. (2015) *Study of Gambling and Health in Victoria: Findings from the Victorian Prevalence Study 2015*, Victoria, Australia: Victorian Responsible Gambling Foundation and Victorian department of Justice and Regulation

Productivity Commission (2010) *Gambling – Productivity Inquiry Report No. 50*, Canberra