

# INDEPENDENT GAMBLING AUTHORITY 2004 AMENDMENTS INQUIRY

A Joint Response by the Australian Hotels Association (SA Branch) and Clubs SA

The Australian Hotels Association (SA Branch) and Clubs SA welcomes the opportunity to comment on the effects of the 2004 amendments on gambling in the State of South Australia and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction. This joint response reflects an agreed position by both Associations and is in itself a demonstration of how crucial **the hotel and club gaming machine industry** views the potential consequences of this inquiry process on the economic viability of our industry.

**Timing:** Recognising the obligation on the IGA to review these amendments we make the observation that this review in terms of the machine entitlement/reduction amendments is being held within 16 months of the practical implementation of the amendments while the Eltridge & Delfabbro research was conducted within just 11 months. Much of the impact of these amendments may take a number of years.

## EXTENT OF SUBMISSION

The AHA-SA and Clubs SA intend to comment on those amendments that have an impact on problem gambling and/or the orderly and efficient conduct of the industry.

They are

- **Terms of Reference of this Inquiry;**
- **Sections 14, 15, 26** relating to the State Procurement Board ceasing to hold the suppliers licence;
- **Sections 27A, 27B, 27c, 27D** – Gaming machine entitlements
- **Section 27E** – Statement of Parliamentary intention with regard to gaming machine numbers
- **Section 71A** – Moratorium on increases in rates of gaming tax
- **Sections 72A, 73BA** – Gamblers Rehabilitation Fund
- **Section 86** – Guidelines
- **Schedule 1** – power to approve and alter codes of practice
- **Section 11** – Independent Gambling Authority Act 1995 – Functions and powers of Authority.

## **TERMS OF REFERENCE – LIMIT OF INQUIRY**

The terms of reference for this inquiry require the Authority to report on the effects of the 2004 amendments on gambling in the State of South Australia and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction.

In the IGA “Guide for making submissions” at 3.2.1 the Authority states that;

**“it is anticipated that most stakeholders’ interest will be on those provisions which relate to the recommendations set out in the report of the Inquiry into the management of gaming machine numbers – as contained in Part 3 of the Amendment Act.”**

In our view **only** the 2004 amendments are the subject of the inquiry and therefore it is the effects of the amendments to the Act that are required to be reviewed and not on what others want to review or what the Authority predicts will generate stakeholder interest. Simply put, this inquiry should not become a forum to debate or deliberate on what would have happened if all of the IGA’s recommendations had been implemented.

We submit that the Authority should not be distracted from its primary objective imposed by Section 89 of the Act and should confine itself to those recommendations adopted by the parliamentary process.

Therefore, the terms of reference imposed by the Act **do not** require the Authority to report on submissions dealing with any of the

recommendations of the Authority into the management of gaming machine numbers which were not reflected in the amendments.

We say this to reinforce to the Authority that it must resist allowing this inquiry to be commandeered by those who want it to become yet another investigation into the overall merits or otherwise of the gaming industry. Such an approach is exhausting and wasteful in terms of the beneficial application of all stakeholder resources and particularly destructive in terms of achieving stakeholder cooperation and collaboration that is ultimately and undeniably essential to maintaining a socially responsible and economically viable gaming industry.

## **PART 3 – LICENCES**

### **Division 1 – Classes of licence**

- **Section 14\* – Licence classes; 15\* – Eligibility criteria; 26\* – State Procurement Board to hold supplier's licence** \* NB: these sections relate to the State Procurement Board ceasing to hold a service licence.

#### **DISCUSSION**

The gaming machine service licence authorises the licensee to install, service and repair approved gaming machines, prescribed gaming machine components and gaming equipment.

The State Supply Board was holder of the licence and had appointed an approved agent to perform the work authorised under the licence. Bytecraft Systems Pty Ltd was the Board's approved agent.

The State Supply role as the service licence holder ceased on 1 July 2006 with the 'opening up' of the market to competition.

However, included in the criteria for new entrants to be approved as a service licensee is a service agent's ability to provide or be part of a state wide arrangement. This naturally restricts participation by new entrants despite service providers/contractors being able to hold a service licence in their own right. The condition imposed by the OLGC effectively means that service contractors (formerly sub-contractors to Bytecraft) remain tied to Bytecraft because as individuals or even in regional arrangements they have no state-wide capacity.

We believe that the intention of Parliament in removing State Supply, was to introduce competition, but this has simply created a model that is

substantially more expensive, restricted in its offerings and with service levels curbed, which could not have been its intention.

So from an industry perspective, this new 'free market' or era of competition has seen:

- services significantly reduced
- options curtailed or simply removed
- price soar

and because of the absolute requirement of gaming venues i.e. a condition of licence, to enter into a contract, a monopoly has been created.

The AHA-SA/CSA believes that these amendments, combined with conditions subsequently imposed have created this monopoly which defeats the purpose of the amendments. Service agents should be able to compete for greater market share.

## Division 3A – Gaming Machine Entitlements Machine Reduction

- Amendments – Sections 27A, 27B, 27C, 27D

The AHA/CSA notes the report by the IGA on the introduction of gaming machine entitlements, the operation of the trading system for gaming machine entitlements and the effects on the gambling industry published in December 2005. The AHA/CSA acknowledged in that report that the entitlement trading process established by the Liquor and Gambling Commissioner was consistent with the legislation.

### IMPACT ON PROBLEM GAMBLING OF THESE AMENDMENTS

#### Discussion

The reduction formula adopted by Parliament saw all ‘for profit’ hotels with more than 20 machines lose entitlements. 40 machine venues were reduced to 32 (-20%), for others such as a 28 machine venue the loss was

**Figure Reduction Formula** as at 1 July 2005

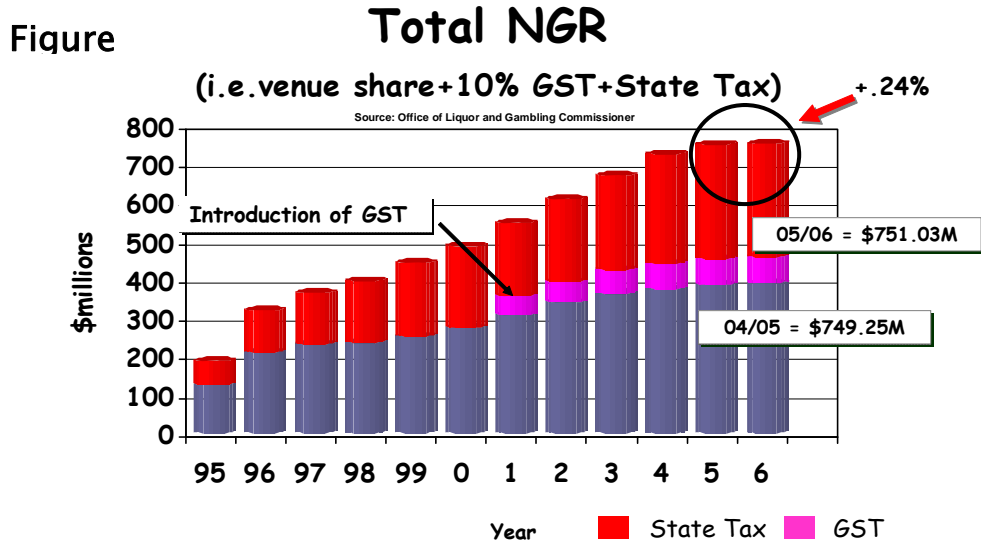
Machines per Venue	Reduction
Less than 20	No loss
21 to 28	Reduce to 20
29 and above	Lose 8

Machines per Venue	Hotels -before 1/7/05	Hotels -after 1/7/05
1 to 10	134 (27%)	133 (27.5%)
11 to 20	84 (16.9%)	104 (21.5%)
21 to 30	41 (8.3%)	30 (6.2%)
31-39	19 (3.8%)	217 (44.8)
40	218 (44%)	0
Total venues	496	484
Average	25.7 per venue	21.7 per venue

**No loss to Clubs & Community Hotels**

in the vicinity of 28.6% while the loss to a 21 machine venue being 5%.

The subsequent trading rounds have seen a further 34 entitlements

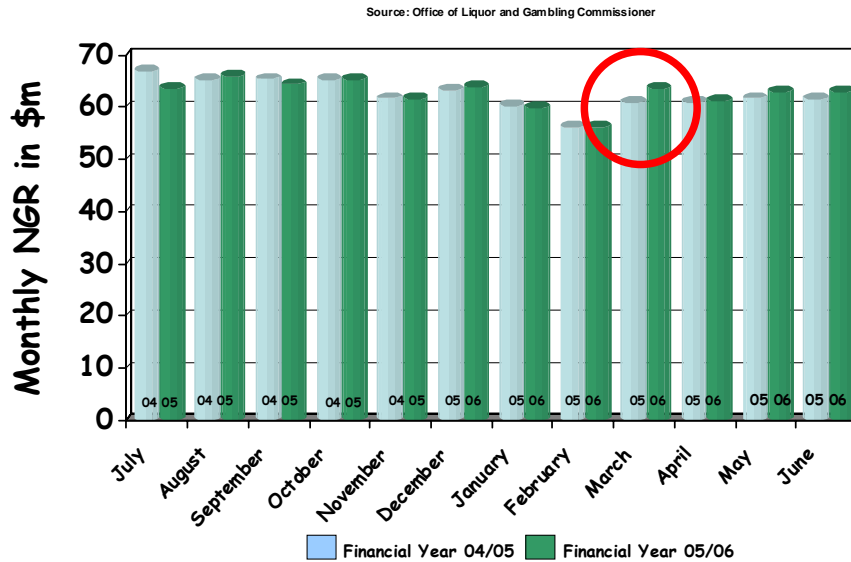


removed as a result of the trading of 244 entitlements. The impact on revenue of this reduction is demonstrated in the full year comparison of Net Gaming Revenue (NGR) results for all years to 2005/06.

2005/06 NGR was for all intents and purposes zero growth at just .24% – refer figure 2. However, further comparisons between pre and post reduction periods are of value in making comparisons. As identified in figure 2, the NGR difference for the year was a gain or growth of approximately \$1.78 million or about .24%.

Figure 3 below plots the comparative NGR for the twelve months before

**Figure State Monthly NGR: 2004/05 vs 2005/06**



and after reduction.

Further analysis of the figures represented in figure 3 identify March 2006 in particular as exceeding the previous March by about \$2.66 million or 4.4%. Of course March 2006 saw Adelaide Cup day relocated to 13<sup>th</sup> March from May, the staging of the Clipsal 500 V8 race (23<sup>rd</sup> to 26<sup>th</sup>), the Adelaide Fringe (24<sup>th</sup> February to 19<sup>th</sup> March), Adelaide Bank Festival of Arts (3<sup>rd</sup> to 19<sup>th</sup> March) and Womadelaide (March 2006) to name the obvious events leading to record accommodation and visitor figures for that month.

In fact there was generally higher retail activity reflected in that month for retail trade figures for South Australia at \$1266.6 million for March 2006, up 3.7% (\$45.5m) on March 2005 at \$1221.1m.

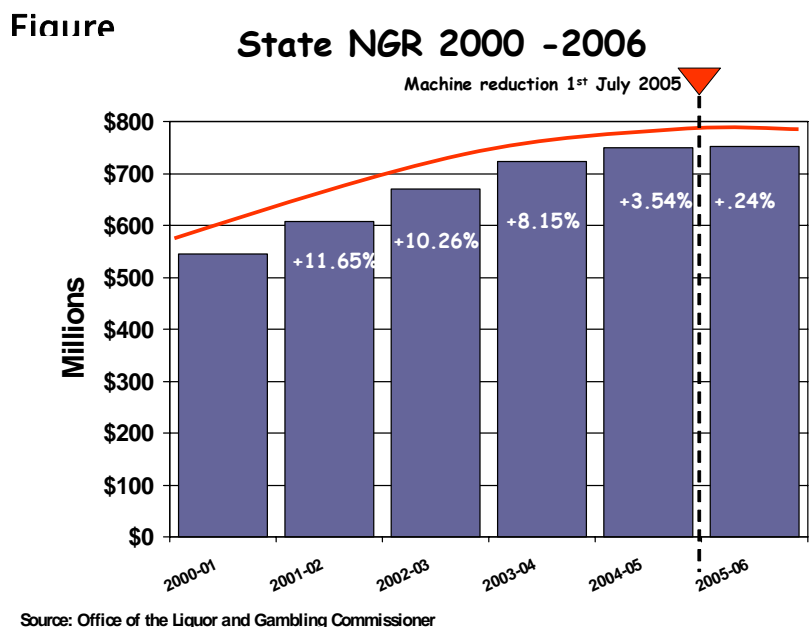
**IS THERE A LINK BETWEEN FLUCTUATIONS IN NET GAMING REVENUE AND PROBLEM GAMBLERS?**

It is important to note that gambling expenditure or taxation figures are not accurate indicators of the impact of gambling in the community. Not every dollar spent on gambling is a dollar of harm (<http://www.justice.vic.gov.au>). A large number of South Australians legitimately choose to spend some of their income on gambling without harming themselves or others. Similarly should the focus of Government and stakeholders be on reducing gambling revenue in total because for some it is inherently and morally objectionable as a leisure activity or should the focus be on the problem gambler, allowing the majority to enjoy their chosen pastime?

**WHY HAS EGM REVENUE NOT DECREASED?**

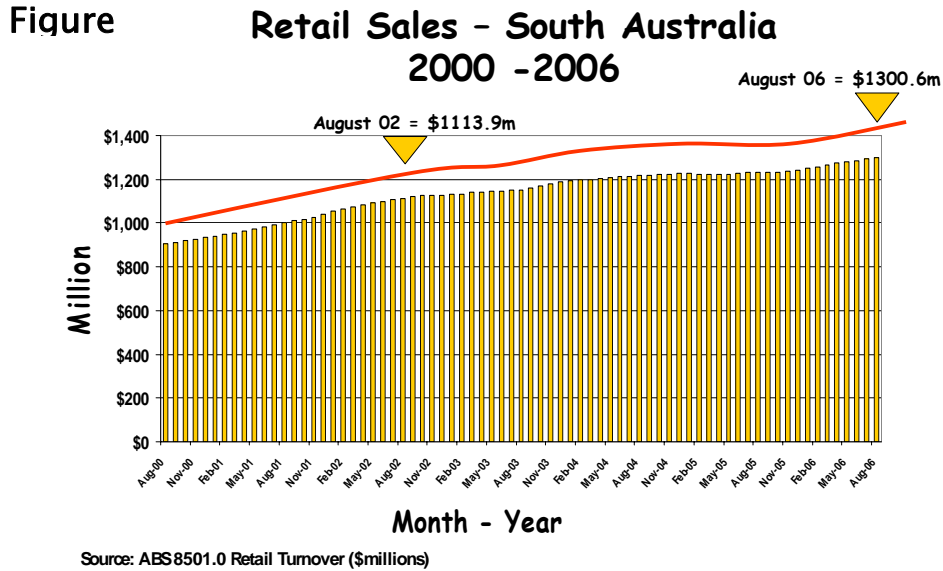
It has in fact substantially reduced in real terms.

Figure 4 reproduces the state NGR since 2000 and indicates the substantial reduction in the rate of revenue growth since then



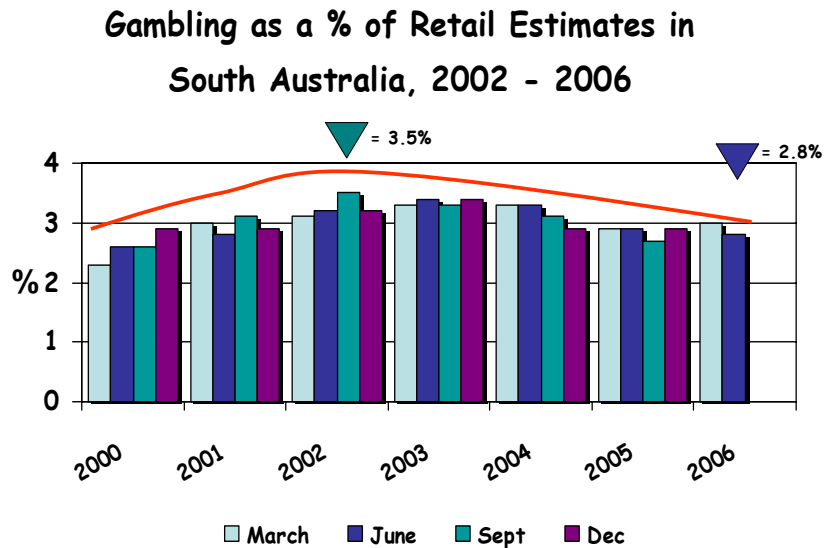
This revenue growth needs to be considered in light of other economic factors that include:

Retail sales estimates in South Australia (figure 5) reflect a 16.76% increase in retail sales in 4 years. (ABS 8501.0 Retail Turnover [\$millions])



Gambling revenue in Hotels and Clubs as a percentage of retail activity in South Australia has dropped from a peak of about 3.5% in September 2002 to around 2.8% in June 2006. (ABS8501.0.55.003 - Contribution of Gambling to Retail Estimates, Jun 2006)

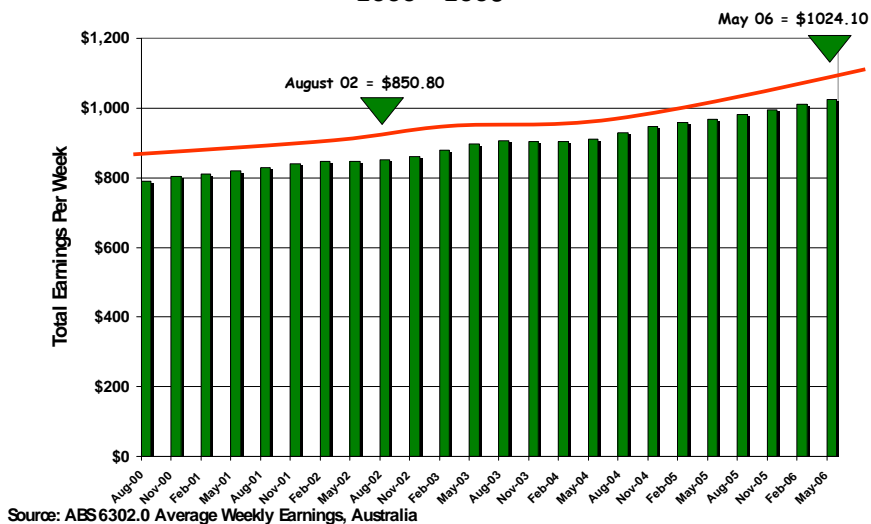
**Figure 6**



Source: ABS8501.0.55.003 - Contribution of Gambling to Retail Estimates, Jun 2006

And of course income has grown with average weekly earnings for South Australia increasing by around **20%** since August 2002 (ABS 6302.0 Average Weekly Earnings, Australia)

**Figure** Average Weekly Earnings, South Australia (Dollars) - Trend  
2000 - 2006



All consistent with Eltridge & Delfabbro’s fourth premise (p92 of 110) that people who gamble may have more disposable or discretionary income to spend on gambling. While Eltridge & Delfabbro (p15 of 110) find in their research that the 2004 Amendments have not reduced overall net EGM revenue in South Australia they comment on the

**substantial** reduction in the rate of EGM revenue growth which may be at least partially attributable to this legislation.

## CONCLUSION

At a Statutory Authorities Review Committee hearing on Thursday 29<sup>th</sup> June at 10am, 2006, IGA Presiding Member Stephen Howells, in responding to a question by the Hon. Michelle Lensink MLC as to her contention that the machine reduction had no impact on problem gambling, retorted (and we paraphrase)... *'Disagree strongly... it will be some years before we know impact...need two or three years ...'* Our interpretation of the Presiding Member's comments in the context of the discussion that day were that there needed to be more time before such judgement could be made or meaningful assessments arrived at. The Presiding Member then responded to a question by the Hon. Ian Hunter MLC (and we paraphrase) *'Are we attempting to reduce because we want to reduce spending or are we targeting problem gambling?'* The Presiding Member responded along the lines of *...there are some in the welfare sector who see gambling as a much bigger community issue, too confronting, too many influences on our lives...they think it should be limited...some want it all banned...others say the only real issue is the problem gambler...my view? ...I saw power in the second position...solve or address serious problem gamblers and let every one else get on with their lives.*

We respectfully agree with the views expressed in the Presiding Member's comments of June 2006. For a significant number of venues (278 out of 585) the removal of machines has been for some the commercial equivalent of radical surgery, with some losing as much as 28.6% of their

gaming machine assets, no less than 5% but with 218 of the total of 278 venues (78%) losing 20%. As a consequence, revenue that had grown by as much as 11.65% and no less than 3.54% in the previous 5 financial years flattened at just .24% growth, growth easily attributed a unique March 2006 with record visitation to the state.

Historic growth needs to be seen in the context of continuing retail sales growth, CPI movements and average income increases. As mentioned earlier, it is important to note that gambling expenditure or taxation figures are not accurate indicators of the impact of gambling in the community (<http://www.justice.vic.gov.au>).

We, like the Presiding Member, are inclined to the position that our focus should be exclusively on the issue of the serious problem gambler rather than simply looking for strategies to reduce gaming expenditure because all gaming is considered simply dire or morally objectionable as a leisure activity.

- **Section 27E – Statement of Parliamentary intention with regard to gaming machine numbers**

*It is Parliament's intention to make no further reduction in gaming machine numbers (beyond the reduction resulting from the implementation of this Division) before 30 June 2014*

While this provision does not form part of a harm minimisation strategy, it does go some way to reassuring current and potential investors of the parliament's intention to maintain an economically viable industry. It is welcomed.

## **PART 8 – GAMING TAX**

- **Section 71A – Moratorium on increases in rates of gaming tax**

*It is the intention of Parliament that the rates of gaming tax, as in force at the time of the enactment of this section, should not be increased before 30 June 2014*

While this provision does not form part of a harm minimisation strategy, as with 27E, it does go some way to reassuring current and potential investors of the Parliament's intention to maintain an economically viable industry. It is welcomed.

- **Section 72A – Gaming tax; 73BA – Gamblers Rehabilitation Fund**

The amendments to establish the Gamblers Rehabilitation Fund as a statutory fund have no direct impact on problem gamblers. What does have the impact is the allocation and utilisation of those funds. This process has been subject to a separate inquiry of the Authority which was tabled in Parliament on 5<sup>th</sup> July 2006. The Hotel and Club Industry through the Independent Gaming Corporation Ltd voluntarily contributes \$1.5 million annually. This contribution is outside the Industry's taxation obligations. Contributions have been made annually since the fund's inception in 1994.

## **PART 9 – MISCELLANEOUS**

- **SECTION 86A – GUIDELINES**

### **DISCUSSION: DEVELOPMENT OF GUIDELINES**

It is generally recognised that the amendment to section 15(5) of the Gaming Machines Act introduced by the Gaming Machines

(Miscellaneous) Amendment Act 2004 was an important and significant provision that should have, for the first time required the Office of Liquor and Gaming Commission to have regard to the likely social effect of the grant of a new gaming machine licence. In making that assessment as to the suitability of such a licence, the Commissioner is required to take into consideration any guidelines issued by the Independent Gambling Authority. As such, it is our submission that the Authority is obliged to provide at least some of the criteria that the Commissioner must take into account.

The current guidelines as released on 2<sup>nd</sup> November 2005 do not in our view, provide any assistance to the Commissioner, but merely require applicants to consult with local government Councils and funded gambling rehabilitation providers.

In their current form they proceed to direct applicants to provide a series of reports none of which assist the Commissioner in determining the “social effect”.

They have subsequently been found to be ultra vires by the Commissioner as part of the licensing application process of the Adelaide Juventus Club application.

#### **COMMISSIONER’S RESPONSIBILITIES RE: THE GRANT OF A NEW GAMING MACHINE LICENCE**

The Commissioner is vested with the responsibility of conducting a proper inquiry in respect of every application (*see section 24(2)*). He has an unqualified discretion to refuse an application for a licence on any ground, or for any reason, that the Commissioner sees fit (*Section 24(1)*). Section 29 of the Act requires that all applications for gaming machine licences be advertised and that a notice in the prescribed form must be

served on the local council. Section 30 provides that objections may be lodged to any application that has been advertised. Such objection can be lodged by any person – this includes local government councils.

However, the guidelines as issued by the Authority would appear to further strengthen the position of councils by giving them additional standing, or at least specifically invite them into the hearings as envisaged by clause 3(1) without providing any guidance to the Commissioner as to what he should take into account. Furthermore, we say that the issue of local government councils having specific rights has the potential of imposing regional caps by default. As the IGA would be aware this issue was rejected during debate on the Gaming Machines (Miscellaneous) Amendment Act 2004. Having been rejected, it is inappropriate that the Authority should seek to introduce this provision under the guise of a guideline.

That the guidelines purport to impose obligations on applicants, as opposed to specifying issues that the Commissioner is required to take into account, means that in their current form, they have been found to be ultra vires.

Likewise, the guidelines seek to impose requirements already required by the Act, namely; Clause 2(3) and section 29 of the Act (Advertising) Clause 3(1) and section 24 (Commissioner to conduct proper inquiry) Clause 3(2) and 3(3) and section 27(3) (Commissioner may impose conditions).

#### **WHAT SHOULD THE IGA GUIDELINES DO?**

We suggest that the following matters may be more meaningful:

1. What is the appropriate “locality” and “local community” for the purposes of the application?
2. What is the relevance of a locality experiencing population growth and also demographic social profile improvement in terms of the ABS Index of Social Disadvantage?
3. Number of machines in the locality?
4. Nature and style of premises?
5. Projected gaming revenue?
6. How is “likely social effect” of the licence granted to be assessed, and likewise “likely effect on problem gambling within the local community”?

#### **GUIDELINES RE COMMUNITY IMPACT STATEMENTS – A QUEENSLAND EXAMPLE**

A useful example of such guidelines can also be found in the Queensland jurisdiction.

The Queensland Gaming Commission guidelines (eighteen pages in total) provide advice on the methodology and scope expected for the preparation of Community Impact Statements. Under section 55B of the Queensland *Gaming Machine Act 1991*, persons preparing Community Impact Statements must have regard to these guidelines.

The primary purpose of a Community Impact Statement is to help the Queensland Gaming Commission assess the social and economic implications of the grant of a gaming machine licence application. These are identical objectives to those of the South Australian jurisdiction.

We recommend the guidelines be redrafted to reflect the above. The Association's offers our collective expertise to assist the IGA in developing useful guidelines.

## **SCHEDULE 1 – GAMING MACHINE LICENCE CONDITIONS**

### **• (na) (nb) – New head of power for approval and alteration?**

At the May hearings it was submitted by Miss Francis Nelson QC on behalf of AHA-SA, Clubs SA and Racing SA that the Authority's power to include matters in any code of practice is limited by the scope of Schedule 1 (na) and (nb). It is submitted that the regulation contained in (nb) (C) is ultra vires. It is submitted that there is no enabling power within either the *Gaming Machines Act* or the *Independent Gambling Authority Act* which authorises such a regulation. The power granted to the Authority in Section 11 (aa) is no more than developing and promoting strategies for "reducing the incidence of problem gambling". It is not empowered in either act to regulate.

We attach the complete submission at **appendix A**

## **INDEPENDENT GAMBLING AUTHORITY ACT 1995**

### **• Section 11—Functions and powers of Authority**

#### **ECONOMIC VIABILITY OF INDUSTRY – A LEGISLATIVE OBJECTIVE**

We remind the Authority that as part of the 2004 amendments, Section 11(2a) of the *Independent Gambling Authority Act 1995* was amended from an objective that the Authority must have regard for the maintenance of a sustainable and responsible gambling industry to what is now clearly Parliament's absolute expectation that the Authority **MUST** have regard to the **economic viability** in the first instance, the gambling

industry as a whole and specifically an economically viable and socially responsible club and hotel gaming machine industry.

The AHA-SA/CSA therefore urges members of the Authority to give due consideration and emphasis to this legislative responsibility to have regard to the **maintenance of an economically viable** industry.

**WHAT DOES AN ECONOMICALLY VIABLE INDUSTRY MEAN?**

From an Industry perspective, it can only mean

- the ability to experience continued economic growth of a magnitude that enhances its ability to employ more South Australians and
- pay taxes.

**Economic viability** should also mean

- the ability to reward effort and entrepreneurial skills,
- to remain attractive as an investment opportunity,
- to provide to owners, operators, investors and shareholders returns comparable with national industry standards and experience **and**
- ensure a degree of regulatory and business stability that maintains and encourages confidence in the long term viability of the Industry amongst financiers, including banks and other financial institutions.

**ADDITIONAL COMMENTARY ON ECONOMIC VIABILITY**

According to leading industry market research analysts *IBISWorld* ([www.ibisworld.com.au](http://www.ibisworld.com.au)), two very clear segments now operate in this industry, with the first being those hotels who have gaming machines and other forms of gambling and those which do not have any form of gambling. While owners in both areas can operate profitably, those with gambling (provided that their clientele are suited to gambling) tend to

have higher income and profit margins. It is, in the opinion of *IBISWorld*, likely that the share of total industry revenue of pubs without gaming machines, will shrink further from 15 per cent in 2000–01 to around half this by 2009–10 and will become more of a niche segment of this industry. Profit margins will continue to be both low and reducing for this latter segment. (IBIS World, H5720 – PUBS, TAVERNS AND BARS IN AUSTRALIA, published date 01–AUG–2006)

#### **SOCIALLY RESPONSIBLE CLUB & HOTEL INDUSTRY – A LEGISLATIVE OBJECTIVE**

The AHA-SA/CSA continues to demonstrate a strong commitment to fostering a culture of responsibility and therefore a socially responsible club and hotel gaming machine industry. This philosophy and commitment to collaborative partnerships is demonstrated through the establishment of *Gaming Care* and *Club Safe* and is entirely consistent with and supportive of the principles of the **National Framework on Problem Gambling 2004–2008**, the joint initiative of the Australian Government and State and Territory governments through the Ministerial Council on Gambling and co-signed by the South Australian Government. (See Appendix B)

#### **Appendix A: Jurisdictional issues submission tabled at Review 2006**

public hearing – 23 May 2006

#### **OUTLINE OF SUBMISSIONS TO THE IGA JURISDICTIONAL ISSUES**

**on behalf of the Australian Hotels Association (SA), Clubs SA & Racing SA Pty Ltd**

1. The Independent Gambling Authority Act (as amended) sets out the functions and powers of the Authority in Section 11;

(aa) to develop and promote strategies for reducing the incidence of problem gambling and for preventing or minimising the harm caused by gambling; and

(aab) to undertake or research including research into;

(iii) strategies for reducing the incidence of problem gambling and any other matter directed by the Minister; and

(b) to advise and make recommendations to the Minister; and

(c) to perform other functions assigned to the Authority under this Act or a prescribed Act or by the Minister.

2. It does not give the Authority power to devise codes of conduct. The Authority is a creature of statute and its powers are restricted to those confined by statute.

3. Section 11 prescribes that the Authority must have regard to 2 objects including;

(b) the maintenance of an economically viable and socially responsible gambling industry (including an economically viable and socially responsible club and hotel gaming machine industry) in this state.

4. In the information document with respect to the approval of codes of practice under Section 41A and 41B of the Casino Act 1997 the Authority said:-

“Legislation

The Authority's ability to approve codes of practice is limited to what the relevant sections of the Casino Act allow for. For example, the codes cannot require the removal of gaming machines from venues". (Page 2).

This document was issued for discussion prior to the hearing in relation to Casino Codes of 20th November 2001.

The information review with respect to codes of practice for gaming machines venues in South Australia, the Casino, Racing and Lotteries (Page 11) says:-

"Legislation

The Authority's ability to approve codes of practice is limited to what the relevant sections of the Gaming Machines Act say".

5. The Gaming Machines Act does not empower the IGA to devise codes of practice. Section 74A authorises the IGA to review codes of practice every 2 years. There was in place a voluntary code of practice which became a transitional code of practice. The wording of the Gaming Machines Act differs significantly from, for example, the Racing (Proprietary Business Licensing) Act.

6. The Authority's power to include matters in any code of practice is limited by the scope of Schedule 1 (na) and (nb). It is submitted that the regulation contained in (nb) (C) is ultra vires. There is no enabling power within either the Gaming Machines Act or the Independent Gambling Authority Act which authorises such a regulation. The power granted to the Authority in Section 11 (aa) is no more than developing

and promoting strategies for “reducing the incidence of problem gambling”. It is not empowered in either act to regulate.

7. It is therefore submitted that the Code of Practice regulatory framework is (in the present context) limited to:

“(A) The display of signs, and the provision of information at the licensed premises relating to responsible gambling and the availability of services to address problems associated with gambling”, (that regulation is conjunctive not disjunctive.)

It is therefore submitted that in relation to the various matters submitted for consideration that the IGA’s power to review in the context of codes of practice would encompass mandatory warnings and in the context of regulation (nb) relationships with counselling agencies and reporting potential gamblers. Other matters including inducement/loyalty, 6 hour break, mandatory breaks in place, screening sights and sounds, alcohol/gambling, co-location of gambling, smoking, coin machines and smart card are ultra vires the power of the IGA.

On and in-venue signage may be the subject of a code of practice on advertising as contemplated in (na).

8. It is submitted further that certain proposals are clearly not matters able to be considered by the IGA in the context of S74A. Matters relating to mandatory breaks in play, six hour break and screening sights and sounds and co-location of gambling are clearly matters which fall within the discretion of the Commissioner. The Commissioner’s discretion is derived from legislation and it would be

beyond power if the IGA were to purport by regulation to override or interfere with his discretion. Further in relation to coin machines it is to be noted that Parliament has seen fit to deal with “cash facilities” by way of legislation, i.e. EFTPOS and ATM’s. It evidences an intention on the part of Parliament to deal with such issues by way of legislation and not by way of regulation. Further issues such as limit on credit have also been dealt with by way of legislation. A further illustration of the intention of Parliament to deal with issues by legislation is the Tobacco Products Regulation Act 2004, which specifically excludes any power of the IGA in Section 4A.

9. Insofar as various submissions to the Authority seek increased penalties by way of fine and suspension of licence, such submissions are misconceived in that the Authority could not purport by way of subordinate legislation to seek to deal with penalties for offences which are currently dealt with by way of legislation.

DATED this 23rd day of May 2006.

Signed .....

E F NELSON QC

**LIST OF AUTHORITIES RE LEGAL PRINCIPLES TO BE APPLIED TO  
SUBORDINATE LEGISLATION**

1. R v. Connell; ex parte Hatton Bellbird Collieries Ltd (1944) 69 CLR 407 at 430.

2. Associated Provincial Picture Houses Ltd v. Wednesbury Corporation (1948) 1 KB 223.
3. Howells v Nagrad Nominees Pty Ltd (1982) 43 ALR 283.
4. Dorset Yacht Co Ltd v Home Office (1970) AC 1004
5. Anns v. Merton London Borough Council (1978) AC 728.
6. Crimmins v. Stevedoring Industry Finance Committee (1999) (ALR 1).
7. Sutherland Shire Council v. Heyman (1985) 157 CLR 424.
8. The Commonwealth v. Tasmania (1983) 158 CLR 1.
9. The State of South Australia v. Tanner & Annors (1989) 166 CLR 161.
10. Williams v. Melbourne Corporation (1933) 49 CLR 142.
11. Bromley London Borough Council v. Greater London Council and Annor (1983) AC 768.
12. (S.72 (3) (f) of the Authorised Betting Operations Act 2000).