



**Independent Gambling Authority**

**2011 Codes of Practice Review**

**Guide for participation**

**Disclaimer**

This document has been prepared for the purposes of public consultation in connection with a review being undertaken by the Independent Gambling Authority. Information provided and statements contained in this document are published solely for the purposes of the inquiry and should not be relied upon for any other purpose.

**Date**

This Guide was issued on 24 August 2011.



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## 1. INTRODUCTION

### 1.1 Overview

The Independent Gambling Authority is undertaking a comprehensive review of the—

- ◆ advertising codes of practice;
- ◆ responsible gambling codes of practice—

applying to all forms of commercial gambling in South Australia.

### 1.2 Codes of practice review—background

The *Statutes Amendment (Gambling Regulation) Act 2001* was enacted on 31 May 2001. It made provision, among other things, for the functions and objects of the Independent Gambling Authority and for the approval by the Authority of mandatory advertising and responsible gambling codes of practice to apply to the Adelaide Casino, SA Lotteries, SA TAB, licensed racing clubs and gaming machine venues (hotels and clubs).

Following widespread consultation, including public hearings and submissions from stakeholders, the Authority provided the Minister for Gambling on 30 May 2003 with an inquiry report setting out uniform measures for inclusion in advertising and responsible gambling codes of practice applicable to all forms of commercial gambling. The uniform measures, referred to as the “first stage codes”, included several initiatives that were largely supported by stakeholders.

A number of further issues (the “second stage issues”) were the subject of ongoing consultation. The conclusion of the second stage issues process was married with the second biennial review of codes of practice, and a review of game approval guidelines and gaming machine licensing guidelines in 2006 (Review 2006).

The process of review and implementation was completed with the commencement of new provisions on 1 December 2008. This included the introduction of universal mandatory warning messages (a three-year cycle of six tested messages rotating six monthly) and the commencement of the approved intervention agency initiative.

Since Review 2006, there have been two major sets of changes to the codes of practice:

- ◆ the introduction of the authorised interstate betting operator regime in 2009 was accompanied by changes to both the way in which codes were mandated for all wagering providers and their content, with new provisions for account-based betting and pre-commitment and activity statements;
- ◆ a new structure for mandating codes of practice was implemented in the *Gaming Machines Act 1992* in June 2011 and expiation payment were introduced for individual code breaches.

This review is being conducted for the purposes of mirror review provisions in each of the *Gaming Machines Act 1992*, the *Casino Act 1997*, the *State Lotteries Act 1966*

and the *Authorised Betting Operations Act 2000*. The maximum interval between reviews is 5 years.

The timing of this review is principally driven by a commitment the Authority made, when mandating the approved intervention agency initiative for hotels and clubs, to review the effectiveness of that initiative after the end of the then 2 year review period for the gaming machines codes of practice.

This guide provides information about the review process including how to make a submission.

### **1.3 Regulatory process**

This inquiry aims to allow the Authority the broadest possible stakeholder consultation. While the Authority expects to hear from peak industry and Concern Sector bodies, it also hopes to hear from interested members of the public, both gamblers and non-gamblers alike.

For that reason, the consultation design includes a 2-day public hearing (in early October 2011) preceded by a long preparation period. The consultation design also allows people to make a submission in person at the hearing without having to write a lengthy outline.

To assist people making submissions, the Authority has produced a submission worksheet, identifying the key provisions of the codes, allowing submitters to identify their response to the provision and also providing space for their own notes. It is separately downloadable from the Authority's website.

After the October 2011 hearing, the Authority will determine whether a further hearing, or a different mode of stakeholder engagement will be necessary. Only when the Authority is satisfied that no further material gains will come from it will the public consultation phase be completed.

Once the public consultation phase of the review is completed, the Authority will release a report and prepare regulatory instruments in draft. While the regulatory process differs slightly between the relevant statutes, the Authority will be seeking industry comment on the actual wording of any changes proposed as part of the review.

Once the Authority has taken into account all comments and made its final decision, the regulatory instruments must be tabled in Parliament and become subject to Parliamentary review through the work of the Legislative Review Committee and the disallowance process.

The Authority has not set a target date for a completion of this review.

## 2. INQUIRY PROCESS

### 2.1 Overview

The Authority will gather evidence by—

- ◆ holding a public hearing;
- ◆ receiving written submissions; and
- ◆ other research.

Stakeholders can become involved in the inquiry by appearing before the public hearing or making a written submission.

The inquiry is being conducted under the powers set out in sections 13–15 of the *Independent Gambling Authority Act 1995*, which are extracted in Appendix 1. These provisions allow for witnesses to attend and documents to be produced, for evidence to be taken under oath or affirmation, for protection against self-incrimination and for legal representation before the inquiry.

The current heads of power for the making of the codes are described in Appendix 2.

### 2.2 The public hearing

#### 2.2.1 Overview

The Authority will hold a public hearing over two days—4 and 5 October 2011.

The hearing provides an opportunity for the members of the Authority to engage in a public dialogue with stakeholders.

It is not necessary to make a written submission to appear before the public hearing. However, to participate in the hearing stakeholders must—

- ◆ register with the Authority;
- ◆ provide a presentation outline of the topics they intend to cover; and
- ◆ provide any additional presentation materials, such as Microsoft Powerpoint files, before midday on the Thursday preceding the hearing (29 September 2011).

These arrangements are subject to change, depending on the nature of responses to the call for participation in the inquiry.

#### 2.2.2 Registration

The Authority encourages all stakeholders who wish to attend the public hearing to register by email beforehand. Registration enables participants to keep up to date with any unanticipated changes to the hearing process.

Stakeholders who wish to make a submission either in person at the October hearing or in writing, are required to register their interest in advance. The preferred method for registration is by email to [review2011@iga.sa.gov.au](mailto:review2011@iga.sa.gov.au).

Stakeholders are urged to register their interest no later than **4.00pm on 7 September 2011**. This is because the office of the Authority will need to circularise participants about the hearing arrangements during September 2011.

The following information should be provided when registering—

- ◆ name of registrant;
- ◆ organisation (if relevant);
- ◆ an email address; and
- ◆ a contact telephone number.

It will assist the conduct of the review greatly to receive, in a uniform format, some minimum basic information about the people making submissions. This will be required, by email, from people who register their interest. The information that stakeholders are to provide when registering their interest for participation should be in the format at Appendix 4. It is also separately downloadable from the Authority's website.

Stakeholders wishing to register who do not have access email, can lodge a registration of interest by mail.

### **2.2.3 Presentation outlines**

Registered participants who wish to make a presentation at the hearing must provide a one page outline of their major points, in dot point form, and the material upon which they will rely.

If published research or other detailed material is to be relied upon, participants will be asked to provide a citation (and if possible a copy) of that material on or before 23 September 2011.

Advance notice of presentation outlines and of the research material to be relied upon will assist in the orderly conduct of the hearing by enabling the order of presentation to follow logical themes.

The preferred mode of submission of presentation outlines is by email to **review2011@iga.sa.gov.au** by **4.00pm on 23 September 2011**.

### **2.2.5 Available research and reports**

The Authority wishes to be advised of any reviews, studies or research conducted which might be relevant to the review.

Such material might be integral to a stakeholder's submission and should therefore be included. However, it also might not be, in which case stakeholders are asked to list the material and provide a reference, if known.

### **2.2.6 Audio visual materials**

As with past inquiries, the Authority will be assisted by electronic presentations being finalised and provided to the office of the Authority beforehand.

The preferred mode of submission of Powerpoint presentations is by email to **review2011@iga.sa.gov.au** by **12.00 noon** on 29 September 2011. Other media (DVDs, video tape, etc), should be supplied by mail or by hand.

#### **2.2.7 Evidence**

The Authority's public hearings are conducted using the Authority's inquiry powers. In an inquiry, evidence may be received under oath or affirmation. As has been the Authority's practice in other inquiry hearings, if evidence is led at the public hearing, the Authority will allow it to be tested by appropriate questioning from affected stakeholders.

In the case of a problem gambler giving evidence about behaviour or conduct, this could include conventional cross examination.

#### **2.2.8 Venue and times**

The venue for the hearing will be the Ballroom, **Sebel Playford**, 120 North Terrace Adelaide.

On the first day the hearing is scheduled to commence at 9.30am, and the hearing room will be available for participants and observers from 9.00am.

On the second day the hearing is scheduled to commence at 10.00am, and the hearing room will be available for participants and observers from 9.30am.

The Authority will take a 45 minute break for lunch at some convenient time after 12.30pm. The Authority expects to conclude the proceeding before 4.00pm each day.

### **2.3 Written submissions**

Stakeholders may make written submissions to the inquiry instead of appearing before the public hearing.

The Authority requires written submissions to be provided both electronically (email or disk) and on A4 paper (one copy only).

Acceptable electronic formats for submission include Microsoft Word "document" format (\*.doc), "rich-text" document format (\*.rtf) and Adobe Acrobat portable document format (\*.pdf). Please note that files submitted in later Microsoft Word formats (\*.docx) may lose their formatting in translation to document (\*.doc) format.

Electronic documents must match the A4 paper version.

One reason for requiring submissions to be provided in an electronic format is that they will be published on the Authority's website. The format for publication will be Adobe Acrobat format. The Authority will undertake conversion of submissions provided in Word document and rich-text formats.

Written submissions are due by **4.00pm** on **23 September 2011**.

## **2.4 Information about the inquiry**

On 24 August 2011 advertisements appeared in the *Advertiser* and the *Australian*, repeated on 27 August 2011, as part of a call for submissions.

Stakeholders who have previously provided an email address to the Authority as part of earlier inquiries will also be advised by email of the call for submissions.

The Authority will use its website as the principal means of communication with stakeholders over the progress of, and any changes to, the process for this inquiry.

## **3. ABOUT SUBMISSIONS AND ISSUES IN THE INQUIRY**

### **3.1 What submissions might address**

Stakeholders are free to raise any issue of concern, either arising from the present codes or being things which should be included in the codes (if that is permitted by law).

However, the Authority has identified a number of issues which should be discussed in any event, in this review. These are discussed in the following section.

### **3.2 Issues which the Authority wishes to see addressed**

#### ***3.2.1 Approved Intervention Agency initiative***

The introduction of approved intervention agencies (AIAs) occurred after the review of the second stage code matters. At this time the Authority made it clear to the stakeholders that, where a gambling provider or a sector of the overall gambling industry instituted an effective early intervention program, the Authority might regard that as a powerful argument in favour of focussing attention on that early intervention program and putting to one side measures which, although they may be directed to harm minimisation, also involved substantial administrative, financial, and logistical impediments to the conduct of the business.

The Authority in its conclusion to its report of Review 2006 said—

The Authority, after careful deliberation, has chosen the course of implementing in the codes a process by which certain “exemptible” second stage issues will not apply to a licensee subscribing to an approved intervention program.

The report also noted that formally recognising Gaming Care and Club Safe as approved intervention agencies gives a powerful reason for licensees to engage with an AIA.

AHA|SA and Clubs SA committed to the ongoing maintenance of Gaming Care and Club Safe as the industry’s main response to embracing harm minimisation. Gaming Care and Club Safe are funded by the industry, through Independent Gaming Corporation Limited.

Gaming Care represents the hotel sector and employs seven fulltime staff (1 General Manager, 1 executive officer and 5 field staff). Club Safe represents the club sector and employs three fulltime staff (1 executive officer and 2 Club Safe officers). There are currently 499 licensed hotel venues and 65 licensed club venues in South Australia.

The benefit to licensees who entered into an agreement with an AIA would be that they were exempt from—

- ◆ a total ban on external signage;
- ◆ a requirement to screen the sights and sounds of gaming;
- ◆ a requirement to relocate automated coin dispensing machines; and
- ◆ a prohibition on loyalty schemes.

Clause 2A was inserted in to the advertising and responsible gambling codes of practice on 1 December 2008.

The aims and objectives of Gaming Care and Club Safe are to—

- ◆ assist venues with compliance with the codes of practice through undertaking voluntary audits of venues;
- ◆ assist venues with the identification of and provision of support for problem gamblers;
- ◆ facilitate programs, initiatives and policies to promote access by patrons to gambling help services; and
- ◆ promote and fund research into problem gambling.

The outcomes that were sought from Gaming Care and Club Safe include—

- ◆ increased compliance with the Codes of Practice;
- ◆ increased referrals to gambling help services; and
- ◆ increased understanding and cooperation between industry and gambling help services.

The first two tables represent compiled statistics from each quarter as reported to the Authority. (Please note that the 2008–09 figures cover a half year—two quarters only—as the reporting requirements commenced in January 2009.) The third table provides comparative statistics in relation to gaming machines and revenue in the sectors.

	Number of visits		Number of interactions	
	Gaming Care	Club Safe	Gaming Care	Club Safe
<b>2008–09</b>	1340	389	564	105
<b>2009–10</b>	2935	641	1264	200
<b>2010–11</b>	2852	813	2691	216
<b>Total</b>	7127	1843	4519	521

	Nature of contact							
	Gaming care				Club Safe			
	Customer approach	Staff approach	3rd party	Other	Customer approach	Staff approach	3rd party	Other
<b>2008–09</b>	218	263	47	36	40	60	6	5
<b>2009–10</b>	430	625	51	77	68	104	16	14
<b>2010–11</b>	754	1567	100	150	76	117	13	12
<b>Total</b>	1402	2455	198	263	184	281	35	31

	Hotels (for profit venues)	Clubs (not for profit venues)
<b>% of installed gaming machines</b>	85	15
<b>% of net gaming revenue</b>	90	10

The Authority seeks a rigorous consideration of the efficacy of the approved intervention agency initiative. This would involve looking at a further consideration of the regulatory measures which were deferred by reference to the likely efficacy of the codes.

The Authority invites stakeholders to comment of the use of AIAs as an effective tool to assist licensees in relation to their obligations under the codes.

The Authority invites stakeholder comment in relation to the expansion of the role of the AIAs in the future and what could be achieved by the AIAs.

### 3.2.2 Casino host responsibility

In December 2004 Skycity Adelaide launched its Host Responsibility Co-ordinator (HRC) intervention program as a one year trial. After that time the program became permanent.

In the Review 2006 review of the codes of practice the question was asked whether Skycity's HRC program should be included in the codes. At that point in time the HRC program was not formally included in the codes of practice.

Skycity Adelaide submitted that it had voluntarily adopted the practices without being mandated to do so by government and that there is wide acceptance of the value of the HRC program, therefore there was no necessity for the provision of the program to be made mandatory in the codes.

Since this time the industry has seen the development of the Approved Intervention Agencies (AIA) which have their role articulated in the codes and with the recent amendments to the Gaming Machines Act have been required to seek formal recognition. The AIAs provide regular reports to the Authority and a sound level of engagement about harm minimisation issues in the industry. However as the role of the HRC has not be codified there has been no reporting relationship with the Authority in relation to the work undertaken by the HRC officers.

The Skycity website in relation to HRC states that *many of the compliance requirements outlined in the Casino Codes of Practice reflect initiatives that were*

*already in operation at Adelaide Casino...as part of our voluntarily developed Host Responsibility programme.*

The HRC program has four fulltime staff and one casual staff member to cover the venue 24 hours a day, 7 days a week. These staff members undertake file management, case management and the handling of issues when on duty such as talking to problem gamblers and assisting with requests for welfare barrings.

The Authority seeks the views of stakeholders in relation to whether the HRC program should be treated in a similar way to the AIAs. This would see the role of the HRC identified in the code of practice with minimum standards established and reporting requirements to the Authority on the activities of the HRC.

### **3.2.3 Inducements to gamble**

Inducements to gamble are dealt with in the existing codes of practice for gaming machines and for wagering providers (in different ways), while the codes of practice for other gambling providers (including the licensee of the Adelaide Casino) are silent on the question of inducements to gamble.

In commerce generally, it is unremarkable that competitors in given markets will seek to attract others' customers by offering incentives over and above the absolute or relative merits of the product itself or competition on price.

In retail, common examples include the bundling of a gift with the purchase and the all-pervasive offer of a chance in a trade promotion lottery.

Common examples in the gambling industry have been the bundling of discounted meals with gambling products, so-called "shopper docket" participation in loyalty programs of varying degrees of sophistication and the provision of spare coins in relation to the purchase of a food or beverage product over and above the change that would normally be returned.

Common inducements to gamble in the wagering sector have been the provision of free bets associated with the opening of an account and the offering of rebates for levels of betting activity over time.

Since the conclusion of Review 2006, gaming machine licensees have been prohibited from offering any form of inducement to gamble other than the participation in a loyalty program. In addition, if the licensee did not have a responsible gambling agreement, the loyalty program had to include a voluntary pre-commitment option.

Since mid-2009, there has been a code of practice prohibition on wagering providers offering any inducement to a person to open a betting account (while rebates and encouragements to prolong the participation have been left unregulated).

The relevant clause, where it appears, is clause 6A.

Amendments were made to clause 6A, and the supporting provisions, in the code applying to gaming machine licensees following observations of early licensee behaviour following implementation. The principal concern was the establishment of bogus loyalty programs which were used as a front to enable the licensee to offer

discounted meals in the gaming room only of the premises, and similar activities which essentially continued the behaviour which the provisions sought to prohibit.

This behaviour was not supported by the peak bodies and is thought to have been limited to a small number of venues. The code amendments were introduced to make it very clear what was common sense to most: that genuine turnover-based loyalty systems were permitted but that other inducements to gamble were prohibited. The prohibition of inducements in gaming venues had been a long-standing item on codes of practice reviews since the Authority commenced its first review in 2003. Its implementation was the outcome of a long and considered process.

The restriction on inducements to open a betting account arose out of national consultation between regulators when interstate betting operators started to actively market their services in the eastern states and South Australia. Most jurisdictions within a short period of time imposed restrictions on the inducements to gamble which could be offered as new entrants to the market sought to take customers from the incumbent totalisators. The offering of \$50 free betting was seen as an unnecessarily risky way of attracting the attention of a relatively immature gambling market.

However, the appetite of interstate betting operators for new customers has not abated and relatively straightforward inducements in the form of free betting credit had been replaced by more complex spotters' fee arrangements and club-branded portals leveraging off loyalty opportunities for other organisations.

The forms of gambling for which inducements are presently unregulated are casino gambling, state lotteries and forms of wagering which do not require the establishment of an account. In the case of state lotteries and face-to-face betting, there was no strongly agitated argument for the imposition on restrictions on the offering of inducements to gamble.

In the case of the Adelaide Casino, the gambling product is at least as risky as that offered by gaming machine operators. However, the Authority chose not to impose regulations on inducements offered to gamble on two bases:

- ◆ unlike hotels and clubs, the Adelaide Casino is a purpose-specific, dedicated gambling venue; and
- ◆ the Authority took some assurance from the existence of the already existing Host Responsibility Coordinator Scheme that such inducements that were offered would be offered responsibly.

The Authority wishes to have a broad conversation with stakeholders about the general subject of inducements to gamble. While the *status quo* should be the commencement of the conversation, stakeholders should not simply assume that the Authority will accept the continuing high risk of the offer of inducements to gamble on gaming machines or conversely, that the reasons for exempting the licensee of the Adelaide Casino from the regulation of inducements should continue.

Even though licensed bookmakers and racing clubs do not routinely offer hospitality as part of the betting product (although licensed racing clubs do offer hospitality on

course) there might be a good argument for uniformity and parity in imposing the same regulatory rigour upon them as is imposed on hotels and clubs.

Similarly, the Authority would like to hear from stakeholders about whether it continues to be necessary to prohibit the offering of free betting credits for the opening of an account: it might be said that the initial \$50 gives new account holders the opportunity to try the product without exposing themselves to additional financial cost. Alternatively, it might be said that no inducement of any kind can be justified for wagering products, and that licensed bookmakers, interstate betting operators and SA TAB should be prohibited even from offering rebates on turnover to their best customers to retain their business.

In respective inducements to gamble, it should be noted that the only concerns drawn to the Authority's attention in the past two years have been those concerning bus trips offered by Skycity Adelaide. The Authority has specifically undertaken to give considerations to submissions surrounding that particular casino inducement practice and the Authority invites submissions on the risks and benefits associated with the offering of free or discounted group travel to the Adelaide Casino in exchange for a promise to remain on the premises and gamble for a fixed period of time.

#### *3.2.4 Differential regulatory treatment*

Following the conclusion of Review 2006, the Authority accepted a general proposition that harm minimisation measures applied to gaming machine operators should not necessarily be applied to the licensee of the Adelaide Casino as the operator of not only gaming machines but also the monopoly provider of table game activity in South Australia.

The justification for this differential regulatory treatment rests on two bases:

- ◆ the fact that the casino is licensed as a purpose-specific dedicated gambling venue; and
- ◆ the existence of a dedicated Host Responsibility Coordinator Program.

At the time the Authority made that decision, the Host Responsibility Coordinator Program had been in operation for some years, while the approved intervention agency initiative was at the time untested. Since that principle was established, Gaming Care and Club Safe have been approved by the Authority, and have provided quarterly comprehensive reporting of their activities and might arguably be regarded as the equivalent of the Host Responsibility Coordinator Program, to the extent that the decentralised nature of hotel and club gaming operations allows this.

The regulatory differential between the Adelaide Casino and gaming machine venues is, at the high level:

- ◆ Skycity's Host Responsibility Program is a voluntary initiative, and is not subject to quarterly scrutiny by the Authority;
- ◆ Gaming Care and Club Safe operate subject to an approval which can be withdrawn at any time;

- ◆ there are regulatory consequences for gaming machine licensees who either do not have a responsible gambling agreement or whose responsible gambling agreement is withdrawn because neither Gaming Care nor Club Safe is prepared to engage with them;
- ◆ Skycity's loyalty program is presently unregulated, while the loyalty programs allowed to hotels and clubs are controlled (regardless of the existence of a responsible gambling agreement).

On one view, the level of regulation should simply follow the nature of the gambling product offered and the risks inherent in the offering of the gambling product. The contrary view, being the way the codes are presently framed, is that there are fewer risks associated with the casino offering these gambling products than with hotels and clubs.

### **3.2.5 Training**

The training clause in the codes requires gambling providers to ensure that all relevant staff receive problem gambling training. The code sets out, at a high level, what is required in relation to training.

Training is a key component to passing on information and knowledge to staff on various matters. Training can take many forms and be supplemented with newsletters, bulletins and general updates. However, training does differ in nature from merely reading a manual to gain information. Training provides the context and an opportunity to engage in relation to the subject matter.

The codes do not describe the detail or method of training required to be undertaken. However clause 10 does provide an indication of the areas that are to be covered by any training offered to staff.

A training course needs to cover information in relation to the potential effects of gambling, information on recognising problem gambling and information on how to approach, interact and refer someone that has been identified as a potential problem gambler.

The current training that is delivered is typically 4 hours in length for people in service. The mode of delivery is classroom style and is competency based. There are also online courses available for the Responsible Gambling Service course. Both Gaming Care and Club Safe offer training and workshops to enhance knowledge and skill. These courses are offered in-venue (to accommodate staff arrangements) and in training rooms. Depending on the course there may be a practical component and role play.

There is currently a requirement for refresher training every two years.

Training programs are required to be regularly reviewed and gambling providers are to provide an audit of their training programs to the Authority.

The code provides for the use of external training providers and states that the training provider must be appropriately accredited in a manner acceptable to the Authority.

The Authority has not actively “accredited” any organisation to date. The Authority has accepted the Registered Training Organisation (RTO) credentials as sufficient.

The Liquor and Gambling Commissioner requires that approved gaming machine employees must be trained and undertake the Provide Responsible Gambling Services (SITHGAM006A) course within 6 months of obtaining approval. The Commissioner has released an information sheet on gaming training requirements that highlights that Liquor and Gambling Inspectors include training requirements as part of their inspections.

The Queensland Government has developed a training framework to support the Queensland Responsible Gambling Code of Practice; trial and review. This can be found at <http://www.olgr.qld.gov.au/responsibleGambling/industryInfo/industryTraining/index.shtml>.

The Authority invites stakeholders to propose what is to be achieved through training and whether the present training is likely to deliver it.

The Authority invites stakeholders to discuss whether current training programs in South Australia should be benchmarked to test their adequacy.

### 3.2.6 *Mandatory warning messages*

One of the outcomes of Review 2006 was to mandate a three-year cycle of mandatory warning messages rotating every six months. The six messages are as follows:

<i>Expanded warning message</i>	<i>Next operative period</i>
Think of the people who need your support. Gamble responsibly.	1 July 2011–31 December 2011
Don't chase your losses. Walk away. Gamble responsibly.	1 January 2012–30 June 2012
Don't let the game play you. Stay in control. Gamble responsibly.	1 July 2012–31 December 2012
Stay in control. Leave before you lose it. Gamble responsibly.	1 January 2013–30 June 2013
You know the score. Stay in control. Gamble responsibly.	1 July 2013–31 December 2013
Know when to stop. Don't go over the top. Gamble responsibly.	1 January 2014–30 June 2014

The codes were framed in such a way that all commercial gambling operators are required to display the same mandatory warning message at the same time and that the warning message is required to be included not only in advertising but also in in-venue signage and responsible gambling material.

The refreshing of the message every six months is supported by literature from the addictions fields where mandatory warning messages are seen to go “stale” after a period of time. By adopting a suite of six messages, the Authority made provision for the cycle to continue indefinitely while managing that risk. The six messages chosen were adopted from a program funded by the Queensland government (and the use of the messages was licensed by the State of Queensland). The messages were initially adopted in Queensland for on street exposure and had been extensively researched

before being deployed. Of the options provided to the Authority in Review 2006, these were the only viable ones.

The Authority, in framing the Review 2006 amendments, recognised that there would be times when it would be impractical to use the full message. For those cases, the condensed form “Gamble Responsibly” is allowed.

The experience in practice has been mixed. Generally speaking the advertising performance by SA TAB and SA Lotteries has been very good with the long message being used, appropriately rotated, in short term material, and the condensed message being used in other circumstances.

The experience in the hotel and club sector, and with the licensee of the Adelaide Casino, has been of limited take up of the long message, with the condensed message mainly being used. The Authority has identified a number of instances where no message was used at all.

It has also been observed that in some radio advertising the words “Gamble Responsibly” have been read, but in a whimsical manner perhaps not consistent with the nature of the message as a warning.

This mixed performance has reflected a range of responses to this form of regulation. On one hand, operators have accepted that the risky nature of the product they offer requires its advertising and delivery to be balanced by a cautionary message; at the other extreme, gambling providers have resisted the idea that anything should interfere with the experience being advertised and have sought to minimise the messages, with compliance being tokenistic when indeed there was any compliance.

The Authority’s first question is whether the codes should continue to require the use of a warning message both in advertising and in the process of delivering the gambling product. If that proposition is affirmed, the next question is what the message should be. It is clearly an option to continue the current suite of messages; however, stakeholders may have suggestions either for specific messages or for a process by which messages would be formulated.

If the Authority is persuaded that there should continue to be mandatory warning messages, the final issue is one of implementation through the codes of practice in a manner which promotes compliance.

While the Authority’s experience supports the proposition that fair-minded and conscientious gambling providers will deploy the message in an appropriate manner, the patchy performance of others gives rise to questions as to how the regulatory intention is best communicated to licensees and operators and also to those with regulatory enforcement and compliance responsibilities.

Reinforcing the regulatory intention might require longer and more complex codes provisions, addressing issues such as:

- ◆ much more restrictive hurdles for using the condensed message (that is, “Gamble Responsibly” on its own);

- ◆ an express requirement that in television advertising the message be both displayed on screen and read out aloud for a minimum exposure of five seconds or one-sixth of the length of the advertisement;
- ◆ a requirement in radio advertising for the message to be spoken in a neutral tone;
- ◆ a requirement for a minimum text height in print media and electronic advertisements, either by reference to actual measurements, or the dimensions of the advertisement.

### *3.2.7 In-venue reporting of problem gamblers*

Early work undertaken by the Authority revealed that gaming venue staff, even without specialist training, were aware that some of their customers were gambling to excess and wished to be able to do something about it. They were understandably reluctant to intervene without explicit management support and without guidance on dealing with the difficult situation.

Various code of practice interventions have sought to build on the natural observations that staff would make and to address the issues of management support and guidance and protocols for approaching people in distress. The activities of Gaming Care and Club Safe have significantly informed this process and all venues with a responsible gambling agreement have been provided with documentary guidance on approaching people in distress.

Gaming Care and Club Safe have also, as required, provided in person and telephone assistance to venues in dealing with people with problems. One regulatory measure introduced for gaming machines venues and the licensee of the Adelaide Casino was clause 8A of the responsible gambling codes of practice.

This clause requires the gambling provider to establish a system for the recording by staff of observed problem gambling behaviour and for the notation of those records by a manager.

The purpose of this requirement is to provide an opportunity for staff to make observations and for the recording of those observations to pose the question to the management of the venue as to how the observed behaviour should be addressed.

The Authority understands that Gaming Care and Club Safe provided advice to licensees on how this process should be implemented, and on that basis there would appear to be no justification for non-compliance.

However, the Authority has become aware of at least two notable incidents where prolonged gambling activity was not recorded, and so there was no prompt to management to take action.

The regulatory purpose behind clause 8A was to provide a functional prompt to management to take common sense action, and to enable the genuine concerns of staff to be channelled in an appropriate manner. The obligation to establish a recording process and for management to review it, only fortnightly, was seen as not imposing a significant burden on licensees.

It was also anticipated that this requirement would provide a readily inspectable activity, thereby allowing the Commissioner to have a key “health indicator” of the responsible gambling performance of the venue.

The Authority is interested in hearing from stakeholders as to the impact of this regulatory measure, and whether it is achieving desirable outcomes. In particular, the Authority is interested in hearing from licensees, their managers and their staff about their experiences of making observations of problem gamblers and how those observations are responded to.

The Authority is open to suggestions for rewording the provisions to address any expectation gap between the Authority’s regulatory objectives for the measure and what licensees believe it obliges them to do.

### *3.2.8 Perimeter control*

The Authority wishes to hear from stakeholders about whether the responsible gambling codes of practice should mandate additional controls on access to areas where gambling activity take place.

The general approach throughout Australia is for lawful gambling activities to be conducted in open access areas—that is, spaces where adults are freely allowed to enter albeit, in some cases, subject to payment of an admission fee (racecourses, sporting grounds).

Even in places where an admission fee is required, or where (such is with the case of the Adelaide Casino) there is a constant security presence at all points of access, adult patrons are generally not required to record their attendance (although some may be asked for identification).

Indeed, there is generally no perimeter control or checkpoint for entry to the licensed gaming areas of hotels and clubs.

Enhanced perimeter control would significantly improve the efficacy of barring as a harm minimisation measure, and would enable more proactive steps to be taken with regular or suspected problem gambling customers. Clearly there would be resource implications for gambling operators in implementing the perimeter control.

One approach would be the manual one—where patrons sign a register to enter the premises with their particulars being checked against a list of excluded persons and people of interest. Another approach would be to use technology to aid in controlling who is in the gaming area.

As the Authority noted in its report of inquiry into barring schemes (2009), some Adelaide licensed premises have been using fingerprint readers to control access to their nightclubs.

In earlier codes of practice reviews, submissions have been made that facial recognition technology could be used to control the perimeter of gaming areas or, alternatively, to monitor who is present in them.

On the last occasion the Authority considered facial recognition technology, it was not satisfied that sufficiently robust technology existed to provide an economical and reliable automated control of access to gaming. It may be that situation has changed.

The Authority has become aware, through the activities of the Federal Joint Select Committee on Gambling Reform, of concerns with the use of biometrics to facilitate secure access to gaming. This is clearly an important issue and any initiative would need to carefully comprehend the related privacy issues.

### 3.2.9 *Mandatory breaks in play (pop-up messaging)*

The literature has long supported the idea that breaks in gaming machine play will operate to reduce problem gambling.

As part of Review 2006, the Authority considered the issue of mandatory breaks in play, based on an in-principle position that there should be a mandatory break in play of 5 minutes every 2 hours. Submissions were invited on how this could be applied across each form of gambling.

In the Review 2006 report, the Authority concluded that, in view of certain technical and administrative issues and noting that New Zealand had then recently regulated a break in play every 30 minutes, it would not proceed at this time.

Since 1 July 2009, every hotel, club and casino gaming machine in New Zealand has interrupted play on a roughly 30 minute frequency with a pop-up screen containing, in respect of the current player's session of play:

- ◆ the length of the session; and
- ◆ the amount spent; and
- ◆ the player's net wins or net losses during the player's session of play.

The player must positively decide to keep playing and, if the player does not, the machine must pay out.

The relevant New Zealand regulation is extracted at Appendix 3.

Now that the technology to deliver mandatory breaks in play has been proven, the Authority would again like to hear from stakeholders about whether it should proceed with its in-principle position, with some other break-in-play position or not proceed at all.

Matters on which the Authority will be assisted by stakeholders' views are—

- ◆ the relative merits of particular lengths of break in play and particular intervals between breaks;
- ◆ the cost of deployment of pop-up messaging;
- ◆ how pop-up messaging might work in conjunction with other in-venue responsible gambling measures;
- ◆ impacts observed in New Zealand;

- ◆ phasing of implementation, noting that in New Zealand the measure applied first to new machines (from 1 October 2005) with all machines having to comply by 1 July 2009.

### *3.2.10 Sportsbetting advertising*

The Authority has become aware, particularly since the establishment of the authorised interstate betting operator regime, that wagering providers are increasingly competing for patron attention through various forms of advertising.

While conventional television, radio and print advertising is well comprehended by the existing codes of practice (the only real issue is a compliance one), it may be that code of practice enhancements are required to address newer forms of advertising—online, at-venue and product placement.

The matters most frequently drawn to the Authority’s attention include the quotation of the betting odds in sporting commentary and the use of sporting scoreboards and boundary signs to advertise betting products, often in the form of dynamic messages.

There are two separate issues with on-line advertising: one is that material appearing on websites may not be able to be jurisdiction-specific; the other is that some operators allow their patrons to sign into a website and the question arises as to when is website content advertising and when is it simply a direct communication in a closed environment.

The Authority has been involved in some national discussions directed at identifying a national response to the emerging challenges presented by sportsbetting.

The Authority wishes to hear from stakeholders about how these matters should be addressed in the South Australian context.

With respect to scoreboard and around-the-ground advertising, the question is what is appropriate, necessary and reasonable in terms of the inclusion of mandatory warning messages in the advertising and the applicability of the targeting prohibitions in the present clause 3 of the advertising codes of practice.

In terms of the quotation of odds in player commentary, the Authority assumes that commercial broadcasters only permit their staff to promote betting odds and the products of any gambling operator in exchange for “valuable consideration”. While that might not be a fee for the announcement, it might arise from an understanding as to the placement of volumes of advertising, etc, etc.

As such, the advertising codes of practice already capture these activities as the responsibility of the gambling provider by reference to the definition of “plug”. One particular question arising from this is whether it is reasonable or necessary to require a mandatory warning message to be quoted each time a gambling product is advertised through the quotation of betting odds. One option might be for the gambling provider to procure that the same commentators will speak, in a neutral tone, the mandatory warning message on a minimum frequency throughout sporting events.

So far as on-line advertising, on public access websites is concerned, it might be that the present advertising requirements are adequate. The advertising codes for authorised interstate betting operators allow licensees to obtain a dispensation from the use of the South Australian suite of messages for truly national advertising, and it might be the website content qualifies.

The fact that advertising appears on the website at times and in circumstances not within the direct control of the gambling provider should not excuse the gambling provider from compliance with the mandatory warning message obligations, or for that matter from any of the other provisions of the code with respect to the content of the advertising.

Stakeholders may not agree and the Authority wishes to hear justifications for such positions.

In terms of material on websites which are not available on a public access basis (but which account holders gain access to through signing in) it is arguable that what the account holder sees should not be regarded as advertising for the purposes of the code.

### *3.2.11 Consolidating the wagering codes*

When the authorised interstate betting operator regime was implemented, the three existing sets of codes of practice were remade as prescribed instruments, and supplemented by a new set of codes for authorised interstate betting operators.

However, the enabling provision (section 6A of the *Authorised Betting Operations Act 2000*) allows for one consolidated code of practice to be prescribed to apply to all gambling operators.

It would be possible, as a drafting exercise, to consolidate all of the wagering codes of practice requirements into a single set of documents. This would increase the complexity of the wording, but would have the advantage that only one set of documents was being used.

While it might appear that the advantages of this approach principally fall to the Authority and the Liquor and Gambling Commissioner as the bodies responsible for administering these codes, there are also advantages for operators in terms of understanding their obligations in relation to the obligations of those with whom they are competing.

Stakeholder submissions are sought on this issue.

### *3.2.12 Children's play areas*

The Authority wishes to have a broad conversation with stakeholders about the general subject of children's play areas at licensed venues.

At present, there is no gambling regulation of children's play areas: no indication as to their permissibility or otherwise in premises licensed for gaming or what their physical relationship should be to areas where gambling takes place (noting that wagering and lottery products are also sold in licensed premises).

Gaming machines can only be licensed in premises which are also licensed for liquor (whether as hotels, clubs or under special circumstances licences). In these premises, licensees provide a wide range of hospitality services, including food and beverages, to a general audience which includes families and their children aged under 18.

While it is forbidden to supply alcoholic beverages to children in these premises, their presence is only forbidden in areas licensed for gaming. It is anticipated that children will be allowed, and indeed be made welcome, in other areas of hotels, clubs and similar licensed premises.

Indeed, many licensees deliberately offer a family friendly environment where children are welcome and families attend to have meals. Many families use these premises responsibly with no intention of gambling. In those circumstances, a children's play area is an amenity to all patrons wishing to have a meal out.

Some licensees offer outdoor play areas in close proximity to a dining area, and some offer a room with video games. Many premises have television in meal areas.

In relation to families where the adults wish to gamble, there is a risk based trade off between the children being in a supervised play area rather than (illegally) being left unsupervised in a parked vehicle.

A concern exists that harm might arise from the exposure of children to the sights and sounds of gambling and that the facilitation of parents' gambling by the provision of convenient play areas for children will "normalise" the activity such that children exposed to gambling are more likely to make the transition to adult gambling.

It is possible that the provision of a children's play area where parents can observe their children whilst participating in gambling could:

- ◆ encourage parents to use play areas "as a babysitter" while they gamble;
- ◆ encourage a higher level of adult gambling if a care-giver no longer has to stay at home to supervise children or can;
- ◆ expose children to gambling at an early age.

There are other risks, unrelated to gambling:

- ◆ a soundproof play area could impair parents' ability to effectively supervise their children; and
- ◆ the gambling provider might face additional potential liabilities or licensing requirements depending on the nature of the facility provided (although this would only be a regulatory concern if the codes of practice obliged the gambling provider to provide a children's play area).

### *3.2.13 Cheques for winnings*

Clause 8(2) of the responsible gambling codes of practice currently requires gambling providers to provide, but only if requested by the player, a cheque in respect of an undisputed prize, winnings or redemption of credits aggregating \$1000 or more. Otherwise, payouts can be made in cash which, of course, can be gambled.

The Authority has been asked to consider mandating all payouts over a certain limit to be paid by cheque and to otherwise regulate that such cheques be banked rather than converted into cash.

The principal policy reason for mandating payouts over a certain level to be made by cheque is that it locks in a player's winnings and avoids the potential for rare events of good luck to be squandered. It might also give rise to an enforced break in play.

Contrary concerns are that such a requirement is difficult to implement, as it would require system intervention and also would increase the present call on licensees to produce cheques at all hours.

#### *3.2.14 Obligations for staff welfare*

An aspect of clause 10 of the responsible gambling code is a requirement that the gambling provider will take reasonable steps to ensure that staff with a potential or actual gambling problem are identified and referred for treatment.

It has come to the Authority's attention that staff at some venues have been observed gambling and last year a coronial inquest identified someone who was an employee in a gambling premise as having a gambling problem that contributed to their death. In that matter the coroner accepted that statistically, persons employed in the gambling industry are more likely to have gambling problems than other members of the community.

There is an onus on the gambling provider to take reasonable steps. The clause does not define what reasonable steps are and these may be different for different providers.

The Authority invites stakeholders to discuss generally clause 10(6) of the code in relation to gambling providers' obligations to staff and how this obligation can be addressed.

## **4. SUMMARY**

The key elements to this consultation are:

- ◆ participant registration [preferred by email to **review2011@iga.sa.gov.au**] by 4.00pm on 7 September 2011;
- ◆ presentation outlines (or written submissions) submitted [preferably to **review2011@iga.sa.gov.au**] by 4.00pm on 23 September 2011;
- ◆ Powerpoint files and other media for presentations to be provided by **midday** on 29 September 2011;
- ◆ two-day hearing at 9.30am on 4 October 2011 and 10.00am on 5 October 2011.

## APPENDIX 1

### Extracts of sections 13–15 of the Independent Gambling Authority Act

#### 13. Inquiries by Authority

- (1) The Authority—
  - (a) may hold an inquiry whenever it considers it necessary or desirable to do so for the purpose of carrying out its functions; and
  - (b) must, if requested to do so by the Minister, hold an inquiry into any matter relating to—
    - (i) the operations of a licensee under a prescribed Act; or
    - (ii) the operation, administration or enforcement of a prescribed Act.
- (2) On completing an inquiry under this section, the Authority must submit to the Minister a report of the inquiry and the findings of the Authority on the inquiry, and any such report may include recommendations for action to be taken.
- (3) Unless the Authority recommends that the report should remain confidential, the Minister must, within six sitting days of receiving a report under subsection (2), cause a copy of the report to be laid before each House of Parliament.

#### 14. Powers and procedures of Authority on an inquiry or appeal

- (1) For the purposes of proceedings before the Authority (whether under this Act or any other Act), the Authority may—
  - (a) by summons signed on behalf of the Authority by the Secretary of the Authority, require the attendance before the Authority of any person; or
  - (b) by summons signed on behalf of the Authority by the Secretary of the Authority, require the production of any equipment or other item, or any books, papers or documents; or
  - (c) inspect any equipment or other item, or any books, papers or documents produced before it and retain them for such reasonable period as it thinks fit, and, in the case of books, papers or documents, make copies of any of them, or of any of their contents; or
  - (d) require any person to make oath or affirmation that he or she will truly answer all questions put to him or her by the Authority relating to any matter being inquired into or that is before the Authority; or
  - (e) require any person appearing before the Authority to answer any relevant questions put to him or her by any member of the Authority or by any person appearing before the Authority.
- (2) If a person—
  - (a) who has been served with a summons to appear before the Authority, fails without reasonable excuse (proof of which lies on the person) to attend in obedience to the summons; or
  - (b) who has been served with a summons to produce equipment or any other items, or books, papers or documents, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons; or
  - (c) misbehaves before the Authority, wilfully insults the Authority or any member of the Authority or interrupts the proceedings of the Authority; or
  - (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Authority,

## Appendix 1: Extracts of sections 13–15 of the Independent Gambling Authority Act—continued

the person is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

- (3) A person is not excused from answering a question or from producing books, papers or documents under this section—
- (a) on the ground that the answer to the question or the contents of the books, papers or documents would tend to incriminate the person; or
  - (b) on the ground of legal professional privilege,
- but if the person objects to answering a question on the ground that the answer would tend to incriminate him or her, the answer will not be admissible against him or her in criminal proceedings (except in proceedings for perjury) or, if the person objects to answering a question on the ground of legal professional privilege, the answer will not be admissible in civil or criminal proceedings against the person who would, but for this subsection, have the benefit of the legal professional privilege.
- (4) The Authority may, if requested to do so by a person who has been required to answer a question by the Authority or who has produced books, papers or documents to the Authority, by order prohibit the publication in any newspaper or by radio or television of the name of the person, any answer given by him or her in proceedings before the Authority or the contents of any book, paper or document produced by him or her to the Authority.
- (5) A person who contravenes an order under subsection (4) is guilty of an offence.
- Maximum penalty: \$10 000.
- (6) The Authority may sit at any time and in any place (including a place outside this State) and may adjourn its sittings from time to time and from place to place.
- (7) In the course of any proceedings, the Authority may—
- (a) receive in evidence any transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the transcript that it thinks proper; or
  - (b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court or tribunal that may be relevant to the matter before the Authority.

**15. Representation before Authority**

- (1) A person appearing before the Authority may appear—
- (a) personally;
  - (b) by counsel;
  - (c) if a body corporate—by an officer or employee of the body corporate who has obtained leave of the Authority to appear on behalf of the body corporate;
  - (d) if the party is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry or the gaming machine industry or of employees in those industries—by an officer or employee of that association.
- (2) The Commissioner of Police may be represented before the Authority—
- (a) by a member of the police force; or
  - (b) by counsel.

## APPENDIX 2

### Description of the heads of power for the codes of practice

#### *Statutory provisions*

The scope of what can be included in advertising and responsible gambling codes of practice is defined by the following provisions of legislation:

- (a) sections 6A(1)(a) and (b) and 6A(3) of the *Authorised Betting Operations Act 2000*;
- (b) sections 41A and 41B of the *Casino Act 1997*;
- (c) sections 10A(1)(d) and (e) and 10A(2) of the *Gaming Machines Act 1992*;
- (d) sections 13B and 13C of the *State Lotteries Act 1966*.

#### *Advertising*

The Acts speak simply of an advertising codes of practice. Advertising has its common meaning. There is no direction in relation to core areas to be addressed or to any restrictions. The Authority is free to make an advertising code of practice that covers a broad range of areas so long as the code does not go so far as to be effectively a total prohibition on advertising.

#### *Responsible gambling*

The Acts all authorise core provisions for responsible gambling codes in relation to—

- signage and information
- provision of training to staff
- any other matters designed to reduce the incidence of problem gambling

The Gaming Machines Act specifically includes in this a program of early intervention in problem gambling that promotes early identification, the provision of information, the use of barring procedures and a referral system.

The Authorised Betting Operations Act specifically includes power to require the gambling provider to provide activity based account statements for telephone, Internet and electronic betting and to offer pre-commitment.

#### *Enforcement*

For licensees and interstate betting operators, non-compliance with a code of practice is a statutory default or proper grounds for disciplinary action.

In addition, the Gaming Machines Act makes it an expiable offence to fail to comply with a mandatory provision of the codes. What is mandatory and the classification of the offence for penalty purposes is set out in the relevant code.

**APPENDIX 3****Extract of regulation 8 of Gambling (Harm Prevention and Minimisation) Regulations 2004 (New Zealand)**

The Gambling (Harm Prevention and Minimisation) Regulations 2004 (SR 2004/276) were made by the Governor-General of New Zealand on 30 August 2004 and came into operation generally on 1 April 2005.

Regulation 2(2) made special provision for the operation of regulation 8 to the effect that it applied to new gaming machines on and after 1 October 2005 and its operation was extended to all gaming machines on and after 1 July 2009.

The Class 4 operator's licence mentioned in regulation 8 is the equivalent of a gaming machine licence. There is a site cap of 18 gaming machines for this class of premises licensed prior to the commencement of the Gambling Act 2003. A cap of 9 machines applies to licences granted after that commencement.

**8 Gaming machine must include feature that interrupts play**

- (1) The holder of a class 4 operator's licence or casino operator's licence must, at a venue at which it conducts gambling, ensure that a gaming machine includes a feature that—
  - (a) interrupts play at irregular intervals (not exceeding 30 minutes of continuous play); and
  - (b) informs the player of—
    - (i) the duration of the player's session of play; and
    - (ii) the amount, expressed in dollars and cents, that the player has spent during the player's session of play; and
    - (iii) the player's net wins or net losses during the player's session of play; and
  - (c) asks the player whether or not he or she wishes to continue with his or her session of play.
- (2) For the purposes of subclause (1)(c), if the player does not wish to continue with his or her session of play, the gaming machine must include a feature that automatically pays out any winnings and credits to the player.

## APPENDIX 4

### Format for registration of interest by email

*Subject line of email*

Codes review: Registration of interest: *[name]*

*Body of email*

Name of registrant: *[name of person sending the email]*

Postal address: *[Street, suburb and postcode]*

Organisation: Not applicable **OR** *[name of organisation registrant represents]*

Email address: *[name]@[domain]*

Contact telephone: *[number including area code]*

I/my organisation wishes to—

make a submission at the hearing on \*\*October 2011

**OR**

make a written submission to be considered in the inquiry

**OR**

observe the hearing and be kept up to date with the progress of the inquiry





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