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Hand Delivered and By email

Mr Robert Chappell
Executive Director
Independent Gambling Authority
Level 4, 45 Grenfell Street
ADELAIDE SA 5000

Dear Sir

**Re: Submission for Independent Gambling Authority Inquiry into
Smartcard Technology**

I set out my submission in relation to the above Inquiry, and I would also be grateful if I could have an opportunity to make an oral presentation to the Authority based on this submission, and to make myself available for any questions that the Authority may have in relation to this submission.

At the outset I re-state that I do not resile from my preferred position that all poker machines in South Australia be removed. However, in the absence of any legislative measures to affect this then the use of Smartcard technology, properly implemented, has an enormous potential to significantly reduce problem gambling in South Australia.

1. INTRODUCTION – Scope of Inquiry; Background - Extent of Problem; Background - Need for Reform:

1.1 Scope of Inquiry:

I note the legislative requirement in Section 90(1) of the Gaming Machines Act provides for the Authority to provide a report to the Minister on “*how Smartcard technology might be implemented with a view to **significantly** reducing problem gambling*” (emphasis added).

‘Significant’ is defined by the Murray English Dictionary as: *Full of meaning or import; highly expressive or suggestive.*

‘Significantly’, in the same publication is defined as:

In a significant manner; so as to convey some meaning; expressively, meaningly.

Given these definitions I would consider the term ‘significantly’ in the context of this Inquiry to mean a reduction in problem gambling of well over 50% and, arguably, somewhere in the region of 70 to 80% of the current level of problem gambling resulting from gaming machine play.

1.2 **Extent of the problem.** Whilst the President of the Hotels Association Mr Peter Hurley seems to have difficulty in defining ‘problem gambling’ (viz his comments to the media on the 15th March 2003 at the Hampstead Hotel launch of the AHA’s ‘Responsible Gambling Officers’ program), the definition has been set out and measured extensively in numerous Australian based reports including that of the Productivity Commission’s report into *Australia’s Gambling Industries*¹, the Independent Gambling Authority’s *Inquiry into management of gaming machine numbers*², the University of Adelaide report into the *Distribution of Electronic Gaming Machines and Gambling-related Harm in Metropolitan Adelaide*³ and the South Australian

¹ Productivity Commission 1999, *Australia’s Gambling Industries*, Report No. 10, AusInfo, Canberra

² Independent Gambling Authority 2002, *Inquiry into management of gaming machine numbers*, Adelaide

³ Delfabbro, P, *The Distribution of Electronic Gaming Machines and Gambling-related Harm in Metropolitan Adelaide*, University of Adelaide, Adelaide, 2002

Centre for Economic Studies' *Community Impact of Electronic Gaming Machine Gambling*⁴.

In a separate report by the South Australian Centre for Economic Studies, *An Assessment of the Impact of Gaming Machines on Small Regional Economies*⁵, it was found that there were over 23,000 poker machines problem gamblers in South Australia.

- 1.3 The Productivity Commission in its report into Australia's Gambling Industries, cited data from the "Survey of Clients of Counselling Agencies", and estimated that the average number of people who are adversely affected by a problem gambler is 7.3⁶.
- 1.4 The Productivity Commission found that 4.7% of those who had ever actually played poker machines were problem gamblers and that 42.3% of net gaming machine revenue comes from gambling from problem gamblers. Further, it was found that 22.6% of weekly electronic gaming machine gamblers are problem gamblers⁷.
- 1.5 In 2003, leaked documents of Victorian gambling giant Tattersalls, revealed that 15% of heavy poker machines players accounted for 60% of total losses⁸.
- 1.6 The above findings (referred to in 1.4 and 1.5) indicate that poker machines are a product that has an inherently high risk of harm. Other products with a much lower propensity for harm have been withdrawn from the market (eg the anti-inflammatory drug Vioxx, which was voluntarily withdrawn by its manufacturer, Merck and Co., after data from a controlled clinical trial pointed to increased cardiovascular problems for one in 65 patients who took the drug for at least 18 months.) or recalled for modification (in the case of motor vehicle recalls, such as the 2003 recall of 1200 Holden V8 Monaro's following a complaint by one

⁴ South Australian Centre for Economic Studies 2003, *Community Impact of Electronic Gaming Machine Gambling*, Adelaide

⁵ South Australian Centre for Economic Studies 2003, *An Assessment of the Impact of Gaming Machines on Small Regional Economies*, Adelaide

⁶ Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, at 7.34

⁷ Ibid.

⁸ See Doughney, J. et al, *Why it is morally wrong to fleece pokie addicts*, The Age, October 27, 2003.

customer that the electronic seat when in its lowest position may move by itself).

To use another analogy more appropriate to the hospitality industry if a restaurant had 4% of its patrons (or even a fraction of that) become ill because of what they consumed on THE premises, then that restaurant would not only face legal action, but also be required by regulatory authorities to identify the source of the factors causing the illness, and a change of practices and procedures to ensure that there was no risk of reoccurrence, or face the consequence of facing regulatory orders that would prevent it from continuing to trade.

- 1.7 The Authority's **Guide for Making Submissions '4.1.3 Exclusion'** refers to the present three statutory schemes in South Australia which recognise the consequent of exclusion from gaming machines. The three schemes, Venue Based Barring, Voluntary Barring, and Barring under the **Problem Gambling Family Protection Orders Act** are all worthwhile initiatives, but unfortunately have low rates of effectiveness.

Paradoxically, the more individuals that avail themselves under the various schemes, which rely on a colour photograph of a barred person being placed in the venues from which that person is barred, the more problematic enforcement becomes under the current system of identification.

The February 2003 report prepared by the South Australian Centre for Economic Studies for the Victorian Gambling Research Panel, *Evaluation of Self Exclusion Programs*⁹, highlighted the lack of effectiveness of the current self-exclusion programs in the Victorian context, which appears to be almost identical in its methods of identification and enforcement as the South Australian system.

- 1.8 The Victorian report found that the utilisation rate of self exclusion programs in South Australia is approximately 3% of problem gamblers. Further, the report found that breaches of these self-exclusion programs were commonplace and went largely undetected¹⁰, with evidence from the Crown Casino, for example, revealing that detection rates for self-excluded gamblers who attempt to breach their undertakings are around only 15 to 20%.

⁹ Gambling Research Panel 2003, *Evaluation of Self Exclusion Programs*, Victoria.

In view of these findings the report recommended:

‘That self exclusion be broadened to encompass a range of behaviours including other voluntary measures such as pre-commitment betting limits. That the Victorian Government and the industry co-operate to develop cost-effective, technology-based capability for pre-commitment betting limits.’

2. Legislation

- 2.1 Section 53A of the Gaming Machines Act 1992 has provision for regulations to be made to allow card based gambling:

Prohibition of certain gaming machine facilities

- (1) *The holder of a gaming machine licence must not provide any gaming machine on the licensed premises that is capable of being operated by means other than the insertion of a coin in the machine or in any linked device.*

Maximum penalty: \$35 000.

- (2) *The Governor may, by regulation, grant an exemption from subsection (1) for a specified period for the purposes of the conduct of a trial of a system designed to monitor or limit levels of gambling through the operation of gaming machines otherwise than by the insertion of coins.*
- (3) *Regulations made for the purposes of subsection (2) may make provision for the recording and reporting of data in connection with the trial.*
- (4) *A regulation under subsection (2) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either House of Parliament.*
- (5) *The Minister must, within 3 months after expiry of an exemption under subsection (2), cause a report to be laid before both Houses of Parliament about the conduct and results of the trial.*

It would not be inconsistent with Section 53A to have a system where machines are operated by a Smartcard, in conjunction with coins (compared to a cashless system) – I submit that would still be consistent with Section 53A, that is, any trial should not be simply limited to assessing the effectiveness of a Smartcard based cashless system. It is important that the Authority obtain independent expert opinion as to the effectiveness, in significantly reducing problem gambling, of

Smartcard technology that still requires insertion of coins, compared to a cashless system. **Attached** is an article from the European Association for a study of gambling headed “Cashless Gaming – by Dominik Burger and Aris Hauk – research that ‘Cashless Gaming increases revenues of Casinos’.

- 2.2 I consider that cashless gaming is something that is seen within the industry as being exceedingly beneficial to gaming machine operators because it may increase the rate of play by stopping interruptions associated with inserting coins and cashing out, it also breaks the mental link between the money as it is being lost as it becomes ‘on paper’ as it is being lost, rather than the physical activity of inserting and losing actual money. Again, this is something that the Authority should consider in the course of determining what type of Smartcard technology system is being used, but particularly in the context of whether it ought to be cashless or linked to a coin operated system.
- 2.3 I would be extremely concerned if any Smartcard technology system made it easier for a player to transfer funds into the Smartcard for the purpose of gambling, and if there was any linkage whatsoever to credit cards or savings accounts.
- 2.4 The above provision would be particularly useful in determining compliance with technical matters in relation to any Smartcard system, and to sort out any ‘teething problems’ in a new system. It may also be useful to evaluate different systems and to assess through vigorous on-site testing in actual venues with patrons the technology of any such system.
- 2.5 However, any claim by the industry that such a trial should also be used to measure the efficacy of reducing problem gambling would need to be seriously questioned. There would be an inherent fallacy in attempting to measure the effectiveness of Smartcard technology for poker machines if machines either in the same venue, or venues nearby could be operated by coins as presently.

3. ‘Rules of Engagement’

- 3.1 I refer to ‘4.3.2’ on the **Rules of Engagement** of the Authority’s **Guide for Making Submissions**. By way of a preliminary point I believe technology adopted for a Smartcard system ought to have sufficient flexibility for the Authority to make recommendations to alter the ‘*Rules of Engagement*’ from time

to time in order to achieve the goal of Smartcards significantly reducing problem gambling amongst poker machine players.

- 3.2.1 The Guide refers to (in order) monetary limits, game feature limits and time limits.
- 3.2.2 Given that gambling related harm is overwhelmingly and primarily related to the amount of money lost any Smartcard system should focus on ensuring effective pre-commitment as to the amount to be played on the machine. A secondary (and almost invariably interrelated) consequence of gambling related harm relates to the amount of time spent on machines and the discord it may cause in the context of the player's family, social and work life.
- 3.3 In relation to the issue of how long prior to the time of playing the limit should be set, I would defer to independent gambling research experts. However, any system should take into account the issues of impulsivity, and the need for there to be an 'informed choice' before a gambler pre-commits. For instance, if a person at a venue is able to pre-commit immediately before playing, and that person has been drinking heavily at the venue, then the whole issue of an informed choice being made is brought into question. That is why I believe any system should allow for a reasonable time frame, of at least 24 hours, from the time of pre-commitment to the time of being able to play.
- 3.4 The **Guide for Making Submissions** at '4.3.2' refers to monetary limits that the gambler can pre-commit to be available to play "per day/week/fortnight". I submit that a monthly pre-commitment should also be included as an option, or even a longer period. In order to maximise the impact of significantly reducing problem gambling, there ought to be an option for a player to pre-commit an overall figure for a period of, say, one month and then to have a 'sub-pre-commitment' for a lesser period. I am concerned that a pre-commitment on a per day basis alone is simply too short given evidence from problem gamblers that seek to chase their losses when a venue re-opens on the following day (or later in the same day for those venues that are open for the statutory maximum).
- 3.4.1 Professor Mark Dickerson, Tattersall's Chair in Psychology at the University of Western Sydney, in his submission to the Independent Pricing and Regulatory Tribunal of New South Wales Report into Gambling of

2003 submitted that pre-commitment cards should be made mandatory in relation to gaming machines¹¹. Based on a study of 200 regular players of gaming machines, Professor Dickerson found that the main cause of the impaired control was the enjoyable strong emotion experienced during play. On this basis, he recommended that players of these machines be required to purchase pre-commitment cards from a location outside the gaming area before they begin a gaming session.

- 3.4.2 In a submission by the University of Sydney Gambling Research Unit in the same report it was argued that voluntary pre-commitment would not be effective in helping problem gamblers who *'tend to become more strongly convinced that a major pay out will soon occur'*, but that it *'may be effective for regular, recreational players'*¹².
- 3.4.3 Considering the terms of reference of this Inquiry, specifically 1.1, which requires that the Inquiry look particularly at how Smartcard technology might work to **significantly** reduce problem gambling, it is important to ensure that any pre-commitment program is indeed mandatory, thus addressing the point raised by the University of Sydney Gambling Research Unit.
- 3.5 Pre-committing to the maximum number of lines played per wager could be a useful strategy to allow a player to control their rate of loss and as such would be welcomed. However the primary focus ought to be to control the overall monetary limit.
- 3.6 The player should not be allowed to increase their level of limits for pre-commitment, but should be allowed to decrease a limit once set, in order to maximise the likelihood of reducing problem gambling.
- 3.7 My understanding of the technical feasibility of Smartcards is that once a pre-commitment is reached (or almost reached – and there may be a warning just before the limit is reached on the machine), the machine would be disabled with respect to that particular Smartcard being used.

¹¹ Independent Pricing and Regulatory Authority of New South Wales 2004, *Gambling: Promoting a culture of responsibility*, Sydney

¹² Ibid

- 3.8 Ideally, any pre-commitment limit would have an overall pre-commitment limit on at least a monthly basis, with the player being required to set a daily limit.

4. **Providing Smartcard Statements to Players:**

- 4.1 The Victorian Government in its Gaming Regulation Act 2003 requires loyalty schemes to provide activity statements to patrons. There is no similar requirement in South Australian legislation for loyalty schemes despite the technical feasibility to do so. The South Australian Parliament, in the course of the debate on the *Gaming Machines (Miscellaneous Amendment Bill) 2004* late last year decided not to support an amendment to that effect.
- 4.2 However, any Smartcard scheme ought to provide regular statements to patrons (preferably monthly or at the very least no more infrequently than quarterly) setting a gambler's activity, including the amount put through a machine, the time and dates played, as well as confirmation of pre-commitments made. Any such statement should have set out prominently details of an appropriate message warning of the dangers of problem gambling and details of where to obtain assistance through the Breakeven Network.

5. **Technical Capability**

In terms of technical issues I don't profess to have the technical expertise of those that have previously made Submissions to the Authority in terms of the information provided. However, it appears from the presentations made to the Authority and the information available from the proponents of these schemes on their websites that the technology is there to ensure that a Smartcard system could be implemented in a way that would address the issues raised by the Authority in its **Guide to Making Submissions**. I would urge the Authority, in its consideration of how best to implement the Smartcard system so as to significantly reduce problem gambling, to look at the most sophisticated effective technology that is available for payroll identification (I note that the technology is constantly evolving and improving in this regard). Any legislative changes required for the implementation of Smartcard technology should allow for monitoring of the effectiveness of any system

implemented and also, for changes in the 'rules of engagement' to allow for the implementation of technological improvements that would improve the efficacy of any system.

There is clearly the technical capability to ensure that a Smartcard system could be appropriately implemented to ensure pre-commitment levels are adhered to and to enable gaming machines to be automatically disabled when pre-commitment levels are reached. I consider these measures would go some way to addressing problem gambling in this state and I commend any moves in this direction. However, I note that the available technology does also provide us with the **option** of converting to a system of cashless gaming, whereby players pre-purchase credit, prior to playing the gaming machines. As outlined in 2.2 of this submission I have serious concerns about some elements of cashless gaming and I therefore urge the Authority to consider all relevant research into the potential links between cashless gaming and problem gambling, not just the technological feasibility of such an option.

6. **Other Considerations:**

I refer to 4.3.4 **Other Considerations** of the **Authority's Guide for Making Submissions** and I dealt with those using the issues set out by the Authority:

6.1.1 **What implications would the introduction of such technology have for licensees and their employees, and non-gamblers?**

The primary purpose of the cards should be to significantly reduce problem gambling. There is no reason why there could not be a thorough and streamlined system to allow a person to apply for a card, ensuring that there is a 100 point identity check. My preference would be that such cards are not applied for at gambling venues. In any event, if venues are entrusted with issuing of Smartcards (not my preferred option) there ought to be significant penalties (including suspension, or loss of venue license) if there is a wilful or reckless indifference to ensuring the integrity of such a card system, particularly with respect to player identity.

6.2 **What implications would the introduction of such technology have for recreational gamblers?**

I refer to the system that was in place for a number of years in the UK which required a person to give 24 hours notice before entering or joining a casino in the UK. Whilst there has been a change of gambling laws in the UK recently, there is a clear precedent for going through a process before being allowed to gamble. Given the enormous level of harm in the community caused by gaming machines (over 23,000 problem gamblers due to pokies according to the SA Centre for Economic Studies report, each affecting on average 7 others) then recreational gamblers should not begrudge being issued with a Smartcard that might take some 15 minutes once off of their time.

6.3 How matters such as lost cards, tourist visitors, card fraud and the like should be addressed.

6.3.1 Lost cards should be dealt with by way of a statutory declaration being required of the person who has lost a card to ensure as much as possible that the card has genuinely been lost, a fee for a lost card (except in circumstances where the card has been reported as stolen), and ensuring that the lost card is disabled before any new card can be reissued.

6.3.2 Tourist visitors (and the whole issue of tourism raised by the AHA is discussed below) should be able to obtain a card at the venue and go through the process like anyone else. I don't think it could be seriously suggested (at least not credibly) that poker machines are a special tourist attraction in this State.

6.3.3 In relation to card fraud there ought to be very significant penalties with respect to the fraudulent use of a card to act as an appropriate deterrent.

6.4 If the Smartcard technologies require centralised management, who should be responsible for that?

I don't believe it would be appropriate for the industry to manage the technologies for the card – it ought to be carried out by an independent authority, presumably the most appropriate would be the Office of the Liquor and Gambling Commission, with a supervisory role as it currently exists in other aspects by the Authority. It may be that the Independent Gaming Corporation Limited will seek to be the centralised location for any such technology, but supervisory, management and direction of that ought to be by regulatory authorities.

7. Australian Hotel Association's Comments:

- 7.1 I refer to the February/March 2005 Hotel SA magazine and the comments by Mr John Lewis AHA (SA General Manager) page 46, in an article entitled '*IGA Smartcard Inquiry – flawed from the start*'. The assertions made in Mr Lewis' report should not go unchallenged.
- 7.2 Mr Lewis sets out that 2% of the population has a gambling problem, which accords with general research, but the figure for those that have actually played a poker machine is much higher as stated in section 1.5 of this submission.
- 7.3 Mr Lewis refers to the "overwhelming majority of people would be made to suffer for something that comparatively affects very few". I would have thought that spending a few minutes to apply for a Smartcard would not be deemed to be 'suffering'.
- 7.4 I am surprised that Mr Lewis refers to "a customer having a few drinks at the pub on a Friday night after work, who decides if she or she wants to have a flutter would not be able to walk into a gaming room and just put a few dollars into a machine. Instead they would have to fill out a form....." I am surprised Mr Lewis uses this example, given that there is a proven link between having even two standard drinks and heavily increasing gambling losses¹³. Again, it's a one off application. There will be no need for a recreational gambler to apply for a Smartcard on every occasion – once it has been issued that person can enter other venues (subject to pre-commitment issues) at will.
- 7.5 Criticism was also levelled at the perceived brevity of the timeframe set out for this inquiry into Smartcards. I note that there were concerns expressed by members of the Government during debate over the *Gaming Machines (Miscellaneous Amendment Bill) 2004* in relation to the six month timeframe set out by the legislation for this inquiry into Smartcards. However, given the AHA'S ubiquitous presence in the public galleries of the Parliament at virtually all times during the Parliamentary debate on the *Gaming Machines (Miscellaneous Amendment Bill) 2004* I am not aware of any complaint being raised by the AHA about the time frame set out.

¹³ Kyngdon, A., and Dickerson, M., 1999, *An experimental study of the effect of prior alcohol consumption on a simulated gambling activity*, Department of Psychology and Australian Institute for Gambling Research, University of Western Sydney Macarthur, Australia.

7.6 Finally, I look forward to the Authority's deliberations in relation to this important issue and re-state my availability to make myself available for any questions that the Authority may have in relation to this Submission and in relation to the Inquiry generally.

Yours sincerely

NICK XENOPHON