

Club One Submission re Social Effect Inquiry and Certificate.

Introduction

Club One has been granted the Special Club License. The license enables Club One to obtain Gaming Machine Entitlements (GMEs) under provisions of the Gaming Machine Act. Subject to oversight by the Office of Liquor and Gambling Commissioner (OLGC), Club One using the Special Club License may purchase GMEs. It may also establish and manage venues, enter arrangements with venues for the hosting of GMEs and provide services to venues.

Club One has a preferred position that reflects its interests; simplified it is that a Social Effect Certificate should be an assessment of the impact of a new venue using objective measureable criteria.

Context

Presently the South Australian gaming industry is in hiatus. There has been some venue refurbishment but no new major venues have been commissioned for some time. The capital required to commission venues, combined with legislative uncertainty, significant ambiguity with obtaining consents and deteriorating conditions has combined to see no new stand alone investment.

The industry is also having GMEs withdrawn and is subject to significant Codes of Practice and social discourse.

The fact that there is gambling and it already has effects is also context for any consideration of a Social Effect made by any one new single venue.

It is the position of Club One that the Social Effect of a single venue should not include an allocation of the existing general effects of the industry. These global impacts have been discussed by the Productivity Report (PC) at Chapter 9 and cited by the IGA research paper "Social Impacts of Gambling: A comparative study" [Social Impacts]. They cover estimates of tangible public elements and intangible personal costs. However the PC was "unable to determine just how significant or pervasive these impacts may be" [Social Impacts page9], as there is "no piece of work which defines or measures social impact specifically" [Social Impacts page 63] and there is "no definitions provided by any of the legislation" [Social Impacts page 56].

Club One does not have such a tool or definition.

Club One also asks the question as to whether it is the responsibility of a gambling authority to determine what is a good community? and therefore what is a benign effect? Club One accepts gross negatives in a community can be identified such as impoverishment, poor education, mental illness and violent and destructive behaviour but is it for a gambling authority to determine that (say) increased numbers of persons renting is a good or a bad for a community? And that this renting or mental illness or poor education within a community can be ascribed to the presence of a gambling venue?

Referred documentation -“Social Impacts of Gambling: A comparative study”

As commented, Club One has reviewed the documentation recommended by the IGA. Club One concludes that this research establishes that the present determination of a Social Effect inquiry is highly subjective. Club One considers that this is because the existing processes fail to provide any substantive evidence of any direct link between the operation of a venue and most alleged impacts. An example is that in all jurisdictions there exists some form of thumb regarding the number of GMEs per 1,000 of the population. The unproven assumption being that if there are too many (not quantified) per 1,000 people, there is a negative impact – this impact is taken as given, neither identified nor quantified.

Position of Club One

The position of Club One is that it supports the existing legal framework whereby recreational gambling is conducted in licensed premises accessed only by adults.

Club One supports a requirement for these venues to provide safe gambling experiences.

Given these venues are licensed and safe, Club One sees no need for a requirement to further restrict or contain such venues beyond legitimate planning concerns that involve such matters as traffic , immediate local amenity (noise etc) and other objective measures.

Further, given that a venue is a place of discretionary expenditure and competes with other businesses who also seek that discretionary expenditure, the consideration of the potential business impact of a venue should not be an element in any Social Effect certificate. To do so would open the Social Effect to a claim that it is a tool to restrict trade or to prevent a venue competing with other venues or other businesses.

Club One interest

Club One will soon hold 250 GMEs. Almost 50% of these are vested into Club One, an arrangement that sees Club One provide a permanent and indexed income to those Clubs that vest.

The income that supports Club One, its loans and the vesting fees to Clubs is drawn from payments made by host venues, by anticipated Club One venues and by host arrangements made with future new or expanded sites.

It is in the interest of Club One and all Clubs and the sport and recreation they succour that the industry is sound, sustainable and has scope to access any growth in the marketplace.

It is thus in the interest of Club One and Clubs and the industry that any proposed Social Effect process operate with clarity, certainty and with expediency so that it might benefit any proposed venue and its community.

The mechanics of a Social Effect Inquiry

Club One perceives the inquiry to be composed of three elements:

1. The identification and quantification of those to experience a social effect (the community of the venue)
2. The identification of benefits and costs
3. The process of engaging those to be impacted and of determining the statement

1 .What is the community of a venue – who is going to be under Effect?

All venues exist within a geographical area. It is those who reside and regularly visit that area who are the constituents of that community.

In a rural context, this area is relatively easy to identify as the majority of the community is in the main area of settlement.

The majority of venues are however within the metropolitan area of Adelaide.

Given that Adelaide can be viewed as an amorphous mass, or a set of unevenly bounded local government areas or a hazy shifting collection of divergent communities based on a specific street or community activism or social activities and/ or common or familial links, it may be more pragmatic to consider the community to be impacted to be those persons living within an arbitrary distance from the centre of the venue.

Given that a venue needs a certain spend to be sustainable, the determination of the size of the community should reflect a reasonable number.

Club One considers that a population base of 100,000 (one third of whom are adults and one quarter of whom play) within the area surrounding the centre of the venue should be considered the community (for the Adelaide area) to evaluate for any social effect.

Club One also argues that a Club has its own community. This is made up of the members and those that choose to frequent the Club venue and participate in Club events and activities.

This membership and supporters should be included in any consideration of a social effect of a Club.

2. Are there measurable Social Effects? - the issue of subjectivity

While Club One considers only those matters measurable and objective should form the evidence to a Social Effect certificate, the problem is that a social effect is nebulous. The commissioned IGA research noted that there is “no widespread agreement on the definition of social impacts or social costs.” [Social Impacts page iv] and that “the final decision tends to be based on subjective judgements by the gambling authority” [Social Impacts page v]

This begs the question of why a process when, in the end, the authority is going to exercise a discretion that is “subject to a high degree of subjectivity” [Social Impacts page v]

Indeed, it may be a better process to ask whether the authority wants the venue rather than spend the money investigating the matter and then being refused because of a subjective consideration.

3. Are there measurable Social Effects - What is a benefit or cost?

The research commissioned by the IGA speaks to the issue of intangible costs and indirect costs of gambling. The PC has sought to quantify these elements but has acknowledged that these estimates are subjective and weightings are similarly guestimates.

Club One acknowledges there are tangible costs and benefits.

Benefits are those matters that add value to the venue’s local community. Those that can be measured include increased employment opportunities, increased demand for local goods, projected grants and improved community support, provision of facilities, infrastructure and resources, enhanced formation of social capital and social cohesion and networks.

Similarly, there are quantified negative measures such as those impinging on local amenity including the negatives of more traffic, more noise, poor location (next to schools, churches and other deemed sensitive community institutions) and quantifiable costs of failed gambling.

Ameliorating these costs is the contribution a venue can make to address the negatives.

A check list of such quantifiable benefits and cost could be compiled and an assessment made of the venue.

However whilst the lists can exist, there is no actual direct link for many of the benefits and costs. There are some such as the employment of staff by the venue that are a direct benefit but of what value / weight is it if placed against the loss of amenity generated by more traffic (should the Local Government allow such an increase) ?

This conundrum emphasises that there is no agreed standard for the “definition of social impacts or social costs”.

Adding to this complexity of what has greater value/ worth/ effects are that some claims of cost occur because the venue has negatives ascribed to it yet they are part of a symptom of personal behaviour or relationship problems. These elements, often the most cited in appeals not to have gambling or new venues include family breakdown, debt, poverty, violence, addictions, mental illness and criminality.

Club One argues these allocated negative impacts are more to do with existing perceptions of the industry and do not belong to the assessment of a specific new venue.

3a. Summation

Club One, in the absence of a definitive agreed tool to measure effects, sees no substantive merit in having a Social Effect other than to assist in influencing a reasonable subjective determination of the potentials of a specific venue and, incidentally, in designing the management of that future venue.

4. The process of engaging those to be impacted and the determining of the statement

The IGA commissioned report concludes that:

“The third main finding of this report is with regard to whether there are tests applied in arriving at the decision as to whether to approve a gaming license. It was found that rather applying a specific test, the approach was for the applicant and gambling authority to follow a process” (page v)

In the end a subjective evaluation is made by the Gambling authority as to what is anticipated to be the net effect and a judgement is made for approval or not.

If a process is to be the format for reaching a determination of Social Effect, Club One argues for a simple assessment process.

4a. Structure

The process should be formal and managed by the gambling authority. It should occur within a set time frame commencing with advertising the commissioning of the Social Effect process and concluding with a determination.

To ensure objectivity, Club One argues for a third party (it is suggested a panel of providers be generated) to undertake the Social Effect research. They then report their findings to the parties for deliberation.

The cost of producing the Social Effects report should be subject to a fixed fee as a preliminary part of the application for a venue.

There should be a public consideration/ hearing of the Social Effects report with a determination made within a month.

As there is a significant role to discretion, Club One would argue for a tribunal style bench (to temper subjectivity) with no appeal.

Conclusion.

It is in the interest of Club One and Clubs and the industry and the sport and recreation they support that any proposed Social Effect process operates with clarity, specificity, certainty and with expediency so that it might benefit any proposed venue and its community.

Club One has a primary position that gaming venues are licensed and safe and thus Club One sees no need for a requirement to further restrict or contain such venues beyond legitimate planning concerns that involve such matters as traffic, immediate local amenity (noise etc) and other objective measures.

If there is to be a Social Effect inquiry then it should be an assessment of the impact on a community (as defined) of a new venue using objective measureable criteria.

As there appears to be no definition or tool to do this, any Social Effect document should be an informing report for deliberation within a formal tribunal style hearing.

In sum the process should have:

Clarity – the use of objective measures as much as possible that manifest in clear cause and effect findings

Specificity – the consideration of the single stand alone venue by the exclusion of anti competitive considerations and the exclusion of existing general impacts and perceptions of the industry

Certainty – an open process with submissions, with no appeal, with a tribunal decision and with an independent report with a preference to rely on objective and measurable criteria

Expediency – a set period to the process with no appeal, should there be undue frustration of the process (other than by the applicant) the matter to default to an approval

The decision

Regardless of the view of a gaming venue, there is an inescapable fact that it exists to make a profit. It makes this profit from selling products that could not be described as having a higher moral purpose, but then nor does the local shoe shop or most matters of commerce. Any decision on social effect thereby needs to look beyond any subjective assertion about the value(moral or otherwise) of gambling and pursue the simple objective assessment of whether on balance that community, as considered through the agreed process, can accommodate that venue.