

Responsible gambling: legal and policy issues

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Introduction

The recent report on Australia's gambling industries by the Productivity Commission was a ground breaking document for a number of reasons. Through its National Gambling Survey,¹ it was able to collect hard data on gambling patterns in Australia and the nature and extent of problem gambling. The Commission also tackled some of the more complex questions about the economic impact of the gambling industry. However, one of the report's most important contributions is that it has sharpened the debate about the social impacts of gambling and the policy mechanisms that might be used to ameliorate the negative consequences of gambling.

The aim of this paper is to provide an overview of the shifts in the legal framework surrounding gambling, with particular reference to the impact of problem gambling on individuals. The first section of the paper summarises briefly the chief findings of the Productivity Commission in relation to problem gambling. It then looks at some of the ways that the legal system has been used to address the issue of problem gambling, including a review of recent policy initiatives on responsible gambling in each of the states and territories. The paper concludes with a discussion of the appropriate roles for government and self-regulatory mechanisms in the area of responsible gambling.

Evidence from the Productivity Commission

Gambling patterns in Australia

The Productivity Commission canvassed a wide range of issues in its recent report *Australia's Gambling Industries*.² The information collected through its National Gambling Survey provided a snapshot of gambling consumption patterns in Australia at the end of the 1990s. This could be summarised as follows:

- 82% of adult Australians participated in some form of gambling in 1997-98;
- 40% of adults could be described as regular gamblers (at least once a week);
- only 20% of adults are regular *non-lottery* gamblers.

The Commission concluded that the major social benefit of gambling is the enjoyment it provides to consumers. Many people gamble because they find it entertaining or exciting. It also forms part of the general social life of many people, with gambling venues such as clubs and casinos providing a pleasant and secure environment in which to socialise as well as to gamble.

¹ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 1.4.

² Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra.

In 1997-98, adult Australians spent (lost) on average \$760 each on gambling, giving a total industry expenditure of \$11.3 billion.³ In 1998-99 this expenditure grew to \$12.4 billion, or \$886.80 per capita, a rise of 8.2% over the previous year.⁴ The rise in gambling expenditure reflects a general trend over the past decade, largely the result of an increase in the number of Australian casinos from eight to fourteen, and the introduction of electronic gaming machines (EGMs or 'pokies') to clubs and hotels in every state except Western Australia.

However, the Commission also found that the expansion of legalised gambling opportunities during the 1990s was associated with reports of a dramatic increase in problem gambling. Consistent reports by community support agencies of individual tragedies were reinforced by a growing body of research that indicated large numbers of gamblers were experiencing profound personal and financial difficulties as a result of their gambling. Public submissions to the inquiry were highly critical of governments and gambling operators, arguing that policies and commercial practices that promoted and stimulated gambling were creating community harm.

Problem gambling: incidence and causal factors

While gambling produces a social benefit for the majority of participants, the Commission identified problem gambling as a critical source of both social and economic costs. The Commission estimated that about 2.1% of Australia's adult population have moderate to severe problems with their gambling. Problem gamblers account for around one-third of total expenditure on gambling in Australia – about \$3.6 billion in 1997-98. Their annual losses average \$12,200 compared with just under \$650 for other gamblers.⁵

An important characteristic of problem gambling is that the social and economic losses that flow from problem gambling are not confined to the individual gambler. The Commission estimated that some five to ten other people may be directly affected by the behaviour of a problem gambler. These people can include family members, employers and other unrelated people (for example, when crime is committed to pay gambling debts). In addition to this, problem gamblers place demands on the resources of community and public services.

The incidence of problem gambling is not uniform across all types of gambling, however. The Commission's National Gambling Survey showed that while 0.28% of lottery players had experienced problems with gambling, 9.27% of electronic gaming machine (EGM) players had experienced problems. EGMs were the most significant source of problem gambling in the Commission's survey, followed by other commercial games (6.0%), racing (5.23%) and casino table games (3.59%).⁶

³ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, pp. 9 & 12.

⁴ Tasmanian Gaming Commission (2000) *Australian Gambling Statistics*, Tasmanian Gaming Commission, Hobart.

⁵ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 21.

⁶ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 6.54.

Having investigated the question of which gamblers have problems, the Commission then considered what factors might contribute to problem gambling and how these factors could be regulated or controlled. The key factors were:

- access

The accessibility of gambling opportunities can be affected not only by the number of gambling venues operating, but also by opening hours and conditions of entry to venues, ease of use of a gambling form and the degree of social acceptance of gambling. Using its own survey data as well as evidence from other research, the Commission found that there was a significant connection between accessibility of gambling and problem gambling:

- *Problem gambling rates are higher in those states where per capita expenditure on (non-lottery) gambling is higher, such as New South Wales and Victoria, and lower where such expenditure is lowest – namely, Tasmania and Western Australia*
- *Patterns of help-seeking by problem gamblers are also strongly associated with accessibility.*
- *There has been a sharp rise in the involvement of women in gambling, which is correlated with the increased access to poker machines.*
- *And survey data indicate that problem gambling rises more than proportionately with the number of regular gamblers.⁷*

- characteristics of game design

Apart from their greater availability, there are aspects of gaming machine design and operation that could contribute to problem gambling. As the games and machines get faster, gamblers can lose money more quickly. This is compounded by the installation of note acceptors, allowing players to play with larger denominations of money. Linked jackpots are another feature that encourages gamblers to continue to play.

- environmental factors

Beyond the actual design of games and machines, the design and operation of gambling venues can also affect problem gambling. Within venues, the separation of gaming areas from restaurants and bars can be important. The financial transactions policies adopted by venues (eg their readiness to cash cheques) can also impact on problem gambling. Promotions and advertising can contribute to false perceptions about gambling, particularly as it tends to emphasise winning, with little reference to the reality of losing.

The Productivity Commission rejected submissions from several industry representatives that problem gambling is the result of particular personality traits or an individual's irrational choice. The Commission came to the conclusion that problem gambling was not merely a matter of individual responsibility, that problems with gambling "emanate from a multiplicity of environmental, social and psychological

⁷ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 37.

factors".⁸ In this view, the industry has a responsibility to provide a safe environment for gambling and to provide adequate consumer information and protection for players.

Policy proposals to address problem gambling

The Productivity Commission concluded that better consumer protection measures were required in the gambling industry. They proposed a number of possible strategies that could minimise the harm caused by problem gambling:

- player information

While gambling is a form of entertainment, it differs from other entertainments in that consumers often have little idea of the true price of playing. Many people do not fully understand how gaming machines operate, for example, and have false perceptions about the likelihood of winning. The Commission found that "...better information about the odds and average costs of gambling might help reduce the false perceptions that sometimes underlie problem gambling."⁹ Full information about how games operate could also lead to more informed decisions by consumers.

- statements of expenditure

The Commission found that gamblers often have poor awareness of how much they have spent gambling. Making spending information available to gamblers could assist them to moderate their gambling to affordable levels. One way to do this is through providing account statements to club members who hold 'loyalty cards' or to TAB account holders. Machines could also be designed to show actual amounts spent, rather than credits used.

- health warnings

Community awareness of the risks of problem gambling could be raised through public health campaigns. Such campaigns should focus on:

- the risks and consequences of excessive gambling
- the signs of an emerging problem
- sources of assistance and advice.

- controls on advertising

In view of the misleading nature of much gambling advertising, the Commission found that there were grounds for developing mandatory advertising codes of practice for the gambling industry. A code could include a requirement for warnings about problem gambling to be included in advertising.

⁸ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 6.8.

⁹ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 40.

- access to cash and credit

Restrictions on the location of ATMs and lower withdrawal limits in gambling venues could assist to limit the amount of money lost by problem gamblers. Access to cash for gambling should also be restricted by prohibiting the cashing of cheques by gambling venues.

- self-exclusion procedures

The Commission favoured the offering of self-exclusion programs by gambling venues and operators. Such programs enable gamblers to exclude themselves from gambling for a certain period or under certain conditions. Where these programs exist, venues need to actively promote their availability and enforce the self-exclusion arrangement.

- machine design

The Commission endorsed the idea that machine design should aim to maximise informed consent and player control over games. For example, players should be notified of the dollar value of their bets, rather than credits, so that they are aware of the real amounts being gambled. The use of bill acceptors could also be limited.

In effect, the dual strategies of consumer protection and harm minimisation proposed by the Productivity Commission raised questions about the gambling industry's duty of care to their patrons and industry's capacity and willingness to self-regulate to protect consumers.

The law and problem gambling: the Australian experience to date

Civil liability: is there a duty of care?

While several states and territories are now beginning to legislate to enforce patron care programs within the gambling industry (see later sections of this paper), some gamblers who have suffered heavy losses in the past have sought to take action against venue operators on the basis of existing legal principles. Long before the Productivity Commission inquiry, in a number of cases gamblers have argued that venue operators owe patrons a duty of care to prevent excessive gambling. Many of these cases have been settled between the parties, with the settlement terms remaining confidential. However, one such case has recently gone to trial in New South Wales. This is the case of *Reynolds v Katoomba RSL Club Limited*.

In this case, which dealt with events between 1990 and 1994, Mr Reynolds claimed that Katoomba RSL Club breached its duty of care to him by continuing to cash cheques after he had asked them not to. The cheques cashed included third party cheques made out to Mr Reynolds by customers of his business. It was also claimed that the club manager lent Mr Reynolds money to gamble.

Mr Reynolds presented evidence that both he and his parents had talked to the manager of the club to explain that Mr Reynolds had a problem with his gambling. The club manager denied that these conversations had taken place.

This case was heard at first instance in the NSW District Court, where the judge found against Mr Reynolds. He took the view that gamblers are responsible for their own actions, and that at all times Mr Reynolds could have exercised his free will to restrain his gambling. The judge found that Mr Reynolds' case did not fall within any existing common law categories of duty of care, and that he was not prepared to create a new category of cases in which a duty of care existed.

This issue remains to be finalised, however, as Mr Reynolds case is being taken on appeal to the Supreme Court. Some further developments in the application of the law of negligence to the gambling industry may therefore yet occur.

It must also be noted that this case reflects this judge's interpretation of the common law notion of duty of care as it applied at the time. Events in 1999, including the Productivity Commission's inquiry and subsequent 'responsible gambling' legislation in New South Wales, undoubtedly have legal implications that could affect future judicial decisions in such cases.

Gambling as an 'addiction': the implications for criminal justice

While there is no conclusive view on the causes and nature of problem gambling, this has not prevented the issue being raised in the context of criminal law. Arguments based on the medical model – that problem or 'pathological' gambling is a psychiatric disorder – are being raised in some courts in an effort to reduce sentences imposed for criminal offences. As part of a plea in mitigation, an offender's gambling 'addiction' is put forward as a factor causing particular stress and difficulty in their life. The implication is that the person has limited ability to control their gambling behaviour.

If gambling addiction is accepted as a type of mental illness, a further possibility is that 'problem gambling' could be used as a defence to a criminal charge. An accused who is a problem gambler may seek to escape liability for a crime on the basis that he/she was mentally ill at the time and did not understand what they were doing when they committed the crime. While the authors are not aware of any such cases to date, such arguments could logically be raised if gambling addiction is accepted as a psychiatric disorder.

If criminal court judges accept evidence of problem gambling as an addiction, this may also have an impact on sentencing. Those convicted may find themselves subject to orders to attend counselling or other treatment for their addiction as part of their sentencing. While several magistrates in Victoria have taken this approach to avoid imposing a jail sentence, evidence about the effectiveness of mandatory counselling is inconclusive. A common criticism of mandatory counselling is that it can only have a positive outcome if the client is a willing and cooperative participant.

Importantly, the notion that problem gambling is an addiction, a type of mental disorder, is a matter of significant debate in Australia.¹⁰ The 'mental disorder' model derives from research in the United States and utilises the DSM-IV criteria to identify

¹⁰ Australian Institute for Gambling Research (1997) *Definition and Incidence of Problem Gambling, Including the Socio-economic Distribution of Gamblers*. Victorian Casino and Gaming Authority.

'pathological' gambling.¹¹ This definition is viewed by many Australian researchers as over-inclusive and inaccurate when used in the Australian context. The American 'clinical test' of problem gambling that has been most commonly used by Australian psychologists, the South Oaks Gambling Screen (SOGS), has also been widely criticised as faulty and inappropriate. However, Australian researchers have yet to agree on a more valid set of indicators or an improved instrument to test the incidence of problem gambling.

This uncertainty places the courts in a difficult position. Judges and magistrates rely on 'expert' evidence to provide guidelines as to the meaning of problem gambling and factors that reliably indicate that a gambler has a problem, and to clarify issues. In the current climate, it is likely that the court could be presented with quite contradictory evidence from two expert witnesses who disagree over the definition and tests for problem gambling. This matter will not be resolved until research is able to provide more reliable and valid criteria for the nature and dimensions of problem gambling, and until the judiciary and magistracy are better informed about the issues.

Importantly, recent events suggest that the common law understanding of duty of care has been surpassed by new legislation on responsible gambling introduced in some states. The new laws and regulations place very specific legal responsibilities and obligations on industry to better inform and protect their patrons.

Definition of responsible gambling

The notion of 'responsible gambling' is a variable and dynamic concept. It is now being imported into legislation and industry codes of practice, yet there has been little discussion about the precise meaning of the term.

As part of its work on responsible gambling programs for industry, the AIGR has developed the following definition:

Responsible gambling is the provision of gambling services in a way that seeks to minimise the harm to customers and the community associated with gambling.

Harm minimisation involves implementing procedures that reduce the social, financial and emotional risks that can be related to gambling. The main aim of harm minimisation is to reduce the likelihood of damaging consequences of gambling through introducing preventative measures. Prevention is targeted through promoting responsible gambling practices and a safe gambling environment.

Therefore, responsible gambling is a preventative strategy that minimises harm and maximises benefits to the community. It is ultimately a strategy that benefits industry itself, by bringing its operations into line with community standards and expectations. In this regard, responsible gambling by industry goes beyond minimum compliance with the law and regulation to reflect changing community values and objectives.

Recent state initiatives

¹¹ The American Psychiatric Association Diagnostic and Statistical Manual 1992.

In the last six months, there has been a great deal of legislative and policy activity in some Australian jurisdictions in response to growing community concern about the social impacts of gambling. Responsible gambling in South Australia, the Northern Territory, Tasmania and Western Australia continues to be dealt with through self-regulatory codes of practice. The governments of New South Wales, the Australian Capital Territory, Queensland and Victoria, however, have decided to take a more active role in implementing responsible gambling programs. This role is not exclusively a government role, however, and legislation passed in, or proposed for, these jurisdictions also envisages a role for some degree of industry self-regulation. In effect, these states have developed a co-regulatory framework to encourage more responsible industry conduct.

New South Wales

The NSW Government has passed two significant parcels of legislation in the last nine months relating to the gambling industry. Significantly, NSW has adopted a 'whole of industry' approach, with legislative amendments for all forms of gambling in the state.

Responsible gambling legislation

The *Gambling Legislation Amendment (Responsible Gambling) Act 1999* was passed by the NSW Parliament late last year. The Act enables the Minister for Gaming and Racing to make regulations on responsible gambling. These regulations can be made with respect to:

- the adoption of responsible practices in the conduct of gambling
- the standards to be observed for the purpose of preventing the misuse and abuse of gambling activities
- prohibiting specified inducements that may encourage the misuse and abuse of gambling activities
- notices to be displayed with respect to the availability of gambling counselling.

To date, only regulations relating to gaming machines in hotels and clubs have commenced. Other regulations are yet to be released.

The gaming machine regulations include detailed provisions on:

- the provision of player information, including information about the chances of winning prizes
- the cashing of cheques
- the payment of winnings by cheque
- cash dispensing facilities
- advertising
- gambling promotions
- the display of information about problem gambling support services
- training of staff
- the operation of self-exclusion schemes.

The legislation contains provisions for codes of practice to be developed by industry and approved by the Minister. The purpose of the codes of practice is to provide practical guidance for the promotion of responsible practices in gambling.

Restrictions on poker machines

On 28 March 2000, the NSW Government announced a freeze on the numbers of poker machines that could be kept by registered clubs. The freeze means that clubs cannot install additional machines for at least the next 12 months. Existing machines can be replaced, however, and clubs may be allowed to purchase extra machines if they can show that their financial viability would otherwise be threatened.

This legislation also prohibits gaming machines being installed in hotels or clubs that are part of a retail shopping centre.

Social impact assessments

In addition to the imposition of a freeze, the NSW Government has introduced a requirement for a social impact assessment to be prepared where clubs or hotels apply to increase the number of gaming machines they can keep. An assessment will also have to be made where a hotel proposes to relocate to a new neighbourhood.

Social impact assessments will have to include details about:

- the number of gaming machines already kept by the club or hotel, and by other clubs and hotels in the neighbourhood
- public demand for gambling in the locality
- the incidence of problem gambling in the local community
- the availability of problem gambling services in the community
- the action proposed to be taken by the club or hotel to minimise any harm that may be associated with an increase in the number of gaming machines in the local community (including action to protect children)
- any likely change in the demands on public transport in the area, and changes in the demand for social services
- any likely employment consequences for other local businesses.

Social impact assessments also have to be advertised for public comment.

Australian Capital Territory

At the end of 1999, a new administrative regime was introduced in the ACT to oversee gaming and racing. The *Gaming and Racing Control Act 1999* established the Gambling and Racing Commission to supervise and regulate the gaming and racing laws in the Territory. Significantly, the legislation obliges the Commission to act in the public interest. In particular, the legislation directs the Commission to perform its functions in a way that:

- promotes consumer protection;
- minimises the possibility of criminal or unethical activity; and

- reduces the risks and costs, to the community and to the individuals concerned, of problem gambling.

The new legislation addresses the issue of the social effects of gambling in some detail. The Commission is required to monitor the social and economic effects of gambling and problem gambling in the ACT, including the need for counselling and other services. The Commission may also carry out or sponsor counselling for persons with gambling problems, or publicity and education programs aimed at providing consumer information about the different kinds of gambling and the risks of gambling.

As an additional measure to deal with the social effects of gambling, regulations may be made that require those who are licensed under the gaming laws to abide by a code of practice. Codes of practice may include guidelines on responsible gambling, such as limits on credit facilities and the establishment of self-exclusion mechanisms.

Queensland

In April 2000, the Queensland Treasurer released a paper entitled *Policy Direction for Gambling in Queensland*. The Policy Direction was developed following the Review of Gaming in Queensland and the *Green Paper on Gaming in Queensland*.

While the new policies are directed primarily towards gaming machines as the major source of gambling problems, they provide for a 'whole of industry' approach. *Policy Direction for Gambling in Queensland* contains the following key points:

Machine numbers

- clubs will be limited to a maximum of 280 gaming machines per site;
- from 1 January 2001, hotels will be limited to a maximum of 40 gaming machines per site.

Licensing

- the Queensland Gaming Commission will seek public comment on applications for new gaming machine sites as a matter of course;
- the Gaming Commission will also examine the location of proposed gaming machines sites in relation to their proximity to schools, shopping centres and other community venues;
- the Gaming Commission will seek public comment as a matter of course on applications to increase gaming machines by 20 or more at a club or by 10 or more at a hotel;
- all applications for new gaming machine sites will be accompanied by a community impact statement and a statement of responsible gambling initiatives to be established at the site;
- clubs with more than 50 machines will provide an annual community benefit statement;
- when considering the location of gaming machines at a proposed site, the Gaming Commission will ensure that:
 - gaming machines are not visible from outside the premises

- exterior signage is appropriate;
- gaming machines are not located near ATMs and EFTPOS facilities;
- where possible, gambling areas are separated from other facilities at the site.

Responsible gambling strategy

- the Queensland Responsible Gambling Strategy will be further developed and implemented focusing on prevention, protection and rehabilitation;
- by April 2001, banknote acceptors in clubs, hotels and casinos will be limited to accepting a maximum \$20 note;
- a Responsible Gambling Fund will be established which will fund a strategic research program and responsible gambling initiatives;
- an industry Responsible Gambling Code of Practice and an Advertising Code of Practice will be developed and implemented;
- support services to those with gambling problems will be extended.

The Queensland Treasurer has indicated that implementation of the strategy is to take place through a process of continuing consultation over the next 12 months.

Victoria

The *Gambling Legislation (Responsible Gambling) Act 2000* was passed by the Victorian Parliament in May. This new Victorian legislation concentrates on gaming and:

- restricts the number of gaming machines at the Melbourne Casino to 2,500. The state 'cap' of 30,000 machines has been retained;
- allows for the imposition of regional limits on gaming machines;
- places some restrictions on 24 hour gaming venues;
- provides a mechanism for local councils to have input into the placement of gaming machines in their area;
- gives the Government power to make regulations in two new areas:
 - the provision of relevant information about gaming to the players of gaming machines;
 - advertising of gaming.

Is there a role for government?

From the preceding section, it can be seen that state and territory governments are approaching the regulation of gambling in different ways. However, analysts seem to agree that there are several key functions that need to be undertaken by government in relation to the regulation of gambling.¹² These were summarised by the Productivity Commission as follows:

¹² See, for example, McMillen (1996) 'Perspectives on Australian gambling policy: changes and challenges'. Paper presented to NAGS '96, *Towards 2000: The Future of Gambling*, National Association for Gambling Studies; Independent Pricing and Regulatory Tribunal of NSW (1998) *Report to government: inquiry into gaming in NSW* IPART, Sydney, p. 26.

- **the development of policy** – including decisions about the accessibility of gambling, tax rates, harm minimisation and consumer protection and the number of provider licences to be issued;
- **control** – administrative decisions within the regulatory framework, such as who should get licences, which venues get machines, technical standards for machines and penalties for breach of licence conditions;
- **enforcement** – monitoring to ensure compliance with the rules and standards;
- **adjudication** – on appeals against decisions made under the control and enforcement functions;
- **revenue assessment and collection;**
- **programs** – such as community awareness campaigns, support services for problem gambling and research.¹³

At present, these functions are carried out at state and territory level. Each state and territory has developed its own policy approach to the regulation of gambling, and different structures are in place within each jurisdiction to implement those policies.¹⁴ For example, in New South Wales, the Casino Control Authority supervises the operations of Star City Casino, while in Victoria the Casino and Gaming Authority is responsible for the casino and all other forms of gaming. The Queensland Gaming Commission regulates only gaming machines in clubs and hotels, but not the casinos or other forms of gaming.

As we have already seen, these differences of policy approach flow through to the area of responsible gambling. While some states and territories now see responsible gambling as requiring at least some level of public regulation, other jurisdictions have characterised it as a matter for industry self-regulation. The result is the application of different standards of consumer protection in each jurisdiction. In most cases, different standards also apply within the same jurisdiction to different forms of gambling - for example, wagering is not subject to the same controls and scrutiny as gaming machines and casino gaming. By any measure this situation is unacceptable. All Australian gamblers are entitled to the highest standards of consumer protection, regardless of their gambling preferences or place of residence.

However, in contrast to this state-based regulatory scheme, the gambling industry is increasingly operating at a national and global level. State and national territorial borders are becoming increasingly meaningless, raising questions about the capacity of any individual state to effectively regulate and protect consumers. Technological advances and the privatisation of many forms of gambling have meant that gambling providers operate across different forms of gambling and in several states. Telephone betting services operated by each of the TABs are available to residents across Australia; the advent of internet gambling is expanding cross-border operations even further. The national and global nature of contemporary gambling requires a national, coordinated solution by governments to protect the gambling public.

¹³ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p. 22.4.

¹⁴ McMillen, J. et al. (2000) *Review of Regulatory Regimes for Australian Gambling*. Australian Institute for Gambling Research.

The Productivity Commission, normally an advocate of free markets and a limited role for government, found that in the gambling industry "self-regulatory approaches are unlikely to be as effective as explicit regulatory requirements".¹⁵ The Commission proposed a number of regulatory strategies to protect consumers and minimise the harm from gambling, including the imposition of licence conditions for responsible gambling, enforceable industry codes of practice, mandatory national advertising standards, consumer education and adequate monitoring of industry compliance. Legislation and regulations recently introduced by governments in the eastern states are an important step towards achieving those responsible gambling measures and acceptable national standards of consumer protection.

Importantly, responsible gambling legislation in NSW, Queensland, Victoria and the ACT has radically altered the policy and legal environment for gambling operators and consumers alike. The previous legal uncertainty with regard to **reliance on** the common law notion of duty of care has been removed; gambling operators are now governed by 'black letter' law that imposes clear obligations on industry to take actions to protect their customers. But these legal safeguards only apply to those gamblers fortunate enough to live in the eastern part of the nation. The onus is now on the lagging governments in other states to introduce similar legislation without delay.

¹⁵ Productivity Commission (1999) *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, p.4.