

17 July 2019

Ms Natasha Mann
Executive Director
Liquor & Gaming NSW
GPO Box 7060
SYDNEY NSW 2001

gm.regulation@liquorandgaming.nsw.gov.au

Dear Ms Mann

SUBMISSION TO THE PROPOSED GAMING MACHINES REGULATION 2019

Thank you for the opportunity to provide a submission to the proposed Gaming Machines Regulation 2019. Our submission focuses specifically on the increased risk of harm from the addition of alcohol into gaming situations. In particular, FARE is concerned about alcohol being provided to people operating gaming machines and the use of alcohol to incentivise gambling.

As defined by the World Health Organization, alcohol is a toxic and psychoactive substance with dependence producing properties. This addictive drug magnifies the vulnerability of gamblers, and diminishes responsible decision-making, leading to greater likelihood of risky behaviours.^{1,2} Every day in NSW, five people die and 129 people are hospitalised due to alcohol,³ and over \$17 million is lost to poker machines.^{4,5} The harms from alcohol and gambling impact on families and communities across the state, and are implicated in third party harms including child neglect, domestic violence and mental ill health. FARE is an independent, not-for-profit organisation working to reduce the significant harm caused by alcohol in Australian communities, including alcohol's contributory effects to gambling harm.

FARE congratulates Liquor & Gaming NSW for identifying gambling-related inducements as a regulatory priority for 2017-18 and 2018-19.^{6,7} FARE believes this is central to Liquor & Gaming NSW's commitment to a risk-based approach to regulatory priorities, and the acknowledgement that some priorities are "so fundamental to meeting community expectations and ensuring safe and responsible liquor and gaming industries that we maintain a constant regulatory focus. These include: conduct that leads to, or is likely to contribute to, significant alcohol or gambling-related harm".

FARE also supports a harm minimisation approach to both gambling and alcohol. In this regard FARE strongly submits that the proposed Gaming Machines Regulation 2019 does not go far enough to ensure harm minimisation is a priority, and that conduct leading to, or likely to contribute to, significant alcohol or gambling-related harm – such as rewards, free and discount alcohol – is prevented. FARE's submission below highlights a number of examples that illustrate the problems with the supply and use of alcohol in conjunction with gaming machines. FARE makes a number of suggestions to strengthen the proposed Regulation.

We would also like to offer our support to the submission prepared by the Alliance for Gambling Reform (AGR). FARE wishes in particular to support the AGR's call for prohibiting the service of food and drink to a person operating a gaming machine, for the prohibition of player reward schemes and for penalty units to be multiplied to better reflect the magnitude of harm caused by breaches.

Examples of conduct leading to, or likely to contribute to, significant alcohol or gambling-related harm

2018 ALH whistle-blower allegations

In 2018, serious allegations of misconduct were raised in the Australian Parliament by Mr Andrew Wilkie MP. Acting on reports from whistle-blowers who previously worked for Woolworths, Mr Wilkie reported to the Parliament that ALH, majority-owned by Woolworths, was engaged in practices to keep 'high-value' gamblers on site and gambling longer in order to increase revenue.⁸

Whistle-blowers have alleged that this practice included storing and sharing personal information about gamblers and providing them with free food and drink, including alcoholic drinks. One whistle-blower in NSW reported that venue staff were actively encouraged by the head office to provide free alcoholic beverages to encourage customers to keep gambling. This practice allegedly included a daily target of \$100 worth of alcoholic beverages per day.⁹

Among the whistle-blower evidence are screenshots appearing to show an electronic database containing details of regular pokies players' gambling habits, drinking habits and favourite sports teams, and appeared to outline actions taken by pub staff to encourage prolonged gambling.¹⁰ ALH subsequently launched an investigation of gambling practices that reported in early August 2018. The investigation found that some venues in Queensland, South Australia and NSW were recording descriptive information about gaming customers. It also found that some venues in Queensland were providing complimentary drinks in gaming areas and that in certain instances this increased provision was directed to "high-value customers" to encourage further gaming activity.¹¹

Following these revelations FARE made formal complaints to regulators, including to Liquor & Gaming NSW. We are now aware that the investigations undertaken by Liquor & Gaming NSW have concluded and a complaint has been lodged with the Independent Liquor and Gaming Authority for disciplinary action.

These incidents highlight a number of concerning issues that must be addressed by Liquor & Gaming NSW. FARE wishes in particular to draw the following points to Liquor & Gaming NSW's attention:

- There is a clear realisation from industry that the provision of alcohol incentivises greater gaming losses;
- The industry cannot be trusted to put the interests of customers above profits;
- The industry cannot be trusted to self-regulate;
- Standards need to be set high and compliance monitored; and
- Maximum penalties must be increased, fines of \$5,500 are not sufficient to change lucrative practices.

Michael West report "Licked and loaded: how much are clubs pushing free grog on pokies players?"

A recent report from journalist Michael West indicates that the practice of using free or discounted liquor to incentivise gaming and gaming losses is widespread across the gaming industry.¹² Examining

the records of some key clubs in NSW, West records the increasing profits from pokies (equating to players substantial losses) against the increased issuing of loyalty points and decreasing revenue from bar sales. West provides strong evidence to suggest that clubs are increasingly using free or discounted drinks to incentivise gaming losses.

The toll from these unscrupulous tactics falls on individuals and their families. West details the sad history of one person, Gary Van Duinen. As West recounts:

“Gary Van Duinen was found dead in bushland near Narrabeen Lakes after a 13-hour pokie playing bender that finished at the Dee Why RSL. Gary was a member of the Dee Why RSL Club’s “Ambassador” program.

Gary was led to believe that he was a special high-ranking person at the Dee Why RSL. The more he gambled on the pokies, the more loyalty points he would receive, and the more he could convert his loyalty into alcohol to consume while tapping away at the machines. In other words, free alcohol for gambling on the pokies. Gary finally ended up paying for his free alcohol at the machines with his life.”¹³

Under the current regulatory framework these abhorrent practices are carried out with virtual impunity. In addition to the giving away of free alcohol, venues encourage the redemption of loyalty points from pokies rewards schemes through alcohol and food products.

Rewards schemes are highly problematic as they incentivise continued gaming and gaming losses, and cause significant levels of harm to the individual, the family and the community. The ability to redeem loyalty points through alcohol and food further increases risk of harm from alcohol products and gaming machines. This is compounded in the case of alcohol, as alcohol use has been shown to contribute significantly to impaired control of gambling behaviour,¹⁴ and combining alcohol consumption and gambling has been shown to increase the negative effects of both behaviours.¹⁵ From a harm minimisation approach alcohol and gambling should be separated at all times.

Additionally, there are no regulatory controls to prevent players from consuming food and beverages in gaming rooms and in front of gaming machines. This further incentivises gambling and restricts people’s ability to remove themselves from the gaming situation by encouraging them to stay and gamble longer. As the Alliance for Gambling Reform notes, research shows that having to get up and move away from a machine is a key mechanism for breaking the gambling spell that captures severely harmed gamblers.

Recommendations for the Proposed Gaming Regulation 2019

The practices in the above examples are abhorrent and predatory and have no place in our society. They seek to increase private revenue at the expense of the individual and society, while fostering gambling and alcohol dependence, and the mutually reinforcing nature of the two activities. The widespread nature of the practice, operating across multiple venues, indicates that the problem cannot be dismissed as an isolated event. Therefore, in line with Liquor and Gaming NSW’s stated priorities and harm-minimisation approach, FARE makes the following recommendations to amend the Proposed Gaming Machines Regulation 2019.

- 1. Liquor & Gaming NSW must undertake stronger regulatory action through increased sanctions.**

The practice of offering or supplying free or discounted liquor as an inducement to play gaming machines is against the law, in accordance with part 3, section 47 of the Proposed Gaming Machines Regulation 2019. However, the maximum penalty of 50 units (or \$5500) does not reflect the gravity of the crime.

Additionally, this practice also arguably constitutes a breach of the NSW *Liquor promotion guidelines*, supported by section 102 of the NSW Liquor Act 2007, on the grounds that:

- (i) providing free alcoholic drinks to targeted people who did not order or request an alcoholic drink creates an incentive for patrons to “consume liquor more rapidly than they otherwise might”;
- (ii) providing free alcoholic drinks to targeted people who did not order or request an alcoholic drink encourages the “irresponsible consumption of liquor”; and
- (iii) providing free alcoholic drinks to targeted people in order to encourage gambling is “otherwise not in the public interest”.¹⁶

It is FARE’s view that a financial penalty alone is an insufficient deterrent for a multimillion dollar company, particularly at the current insignificant amount. The blatant disregard from some of the biggest industry players for the consequences, as outlined above, indicate the need for stronger sanctions. In addition to financial penalties, venues should have their gambling licence and liquor licence suspended for a significant period of time, proportionate with the severity of the crime. In addition, the licensee and staff member should be personally responsible, similar to the model for supplying alcohol to an intoxicated or underage person – the maximum penalty for both the licensee and staff is \$11,000 or 12 months imprisonment or both. However, this arguably should be higher for the licensee. In Queensland the maximum penalty for the licensee or manager is three times higher than the penalty for individual staff.

2. Prioritise harm minimisation

The mandate to prioritise harm minimisation above business interests should be enshrined within the objects of the laws and regulations that govern liquor and gaming in NSW. Harm minimisation must be made a primary object of all relevant Liquor and Gaming Acts, and in the interim, harm should be defined within the Gaming Machine Regulations 2019.

3. Ban the consumption of food and beverages, with the exception of tap water, in gaming machine rooms.

All food and drinks, even those purchased by patrons should be banned from gaming machine rooms. Under a harm-minimisation approach individuals should be encouraged by hunger or thirst to stand up, leave the gaming machine room and get out of the “zone”. Specifically, alcohol should not be consumed by people actively using gaming machines due to the increased risk of harm both from alcohol and gambling.

4. Ban the use of player reward schemes

Player reward schemes should be prohibited, but player activity statements should still be provided as a responsible conduct of gambling measure. In the absence of a ban on player reward schemes, at a minimum, rewards must not be redeemable for alcohol.

5. Introduce a requirement for venues to disclose revenue to Liquor & Gaming NSW

All venues with gaming machines should be required to account for all alcohol purchased or given away. This includes disclosure of bar trading performance and any use of loyalty points (if still allowed).

Thank you once again for the opportunity to raise these important issues with you. We hope you will consider the recommendations outlined in our submission. If you would like any further information, please contact [REDACTED], Senior Policy Officer on [REDACTED] or [REDACTED].

Yours sincerely



MICHAEL THORN
CHIEF EXECUTIVE

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- ⁵ Froelicher C (2019, May 23). NSW sets world record for pokies losses: \$18.7 mio-per day. SBS. Retrieved from: <https://www.sbs.com.au/yourlanguage/german/en/article/2019/05/23/nsw-sets-world-record-pokies-losses-187-mio-day>
- ⁶ Liquor & Gaming NSW. *Regulatory priorities 2017-2018*. Retrieved 05/09/2018 from: <https://www.liquorandgaming.nsw.gov.au/Documents/about-us/cp5272-regulatory-priorities-2017-2018-statement.pdf>
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- ⁸ Hansard. 28 February 2018. *Federation Chamber – Constituency Statements – Gambling, Woolworths*. Parliament of Australia. Retrieved 27 August 2018 from: https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/10bbc6a7-ab94-4e90-9e2c-317c61ae2064/&sid=0237
- ⁹ The whistle-blower's claims are outlined in the Tweed Valley Weekly, 23/08/2018. Available at: <http://www.tweedvalleyweekly.net.au/former-woolworths-tavern-employee-speaks/>
- ¹⁰ Some of the material from whistle-blowers has been made available by the Alliance for Gambling Reform. Available at: http://www.pokiesplayyou.org.au/woolworths_explainer
- ¹¹ ALH summary of review findings, 06/08/2018. Available at: <https://www.alhgroup.com.au/news/alh-reviews-into-responsible-gaming-practices>
- ¹² West M. (2019, 12 July). Licked and loaded: how much are clubs pushing free grog on pokies players. Available at: <https://www.michaelwest.com.au/licked-and-loaded-how-much-are-clubs-pushing-free-grog-on-pokies-players/>
- ¹³ West M. (2019, 12 July). Licked and loaded: how much are clubs pushing free grog on pokies players. Available at: <https://www.michaelwest.com.au/licked-and-loaded-how-much-are-clubs-pushing-free-grog-on-pokies-players/>
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