ClubsACT

The Secretary
Standing Committee on Public Accounts
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

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COMMITTEE OFFICE

Dear Secretary,

Please find attached the submission to the ACT Legislative Assembly Standing Committee on Public Accounts Inquiry into the *Gaming Machine Amendment Bill 2011.*

The submission is lodged on behalf of the members of ClubsACT.

Please don't hesitate to contact me if you require anything further and I look forward to receiving details as to when the committee will be undertaking hearings.

Kind regards

Jeff House
Chief Executive

31 January 2011.

| A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE | |
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ClubsACT

A community way of life

# Submission to the ACT Legislative Assembly Standing Committee on Public Accounts

# Inquiry into the *Gaming Machine Amendment Bill 2011*.

31 January 2012

Lodged on behalf of the members of ClubsACT. For further information, please contact:

ClubsACT
A community way of life

CLUBS OF THE ACT
ACTIVELY INVOLVED


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Chief Executive

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## Executive Summary

The *Gaming Machine Amendment Bill 2011* attempts to address a long-standing deficiency in the Act with respect to the location and mobility of gaming machines in Canberra.

The Bill also introduces a number of other measures including a statement of intent to reduce gaming machine numbers from the current 5,024, to 4,000 through natural attrition and a $250 per day withdrawal limit on Automatic Teller Machines (ATMs) within licensed premises.

While ClubsACT acknowledges that the gaming machine transfer scheme contained in the Bill is an attempt to address the issue of a lack of flexibility in terms of the movement of machines between venues, ClubsACT believes the scheme as proposed is limited in its scope and creates a degree of uncertainty which may render it unusable.

With respect to the proposed ATM withdrawal limit, ClubsACT does not believe there is sufficient evidence to indicate such measures have a discernable impact on problem gambling and certainly not one that outweighs the negative impacts of introducing a cap.

In terms of the statement of intent to reduce machine numbers to 4,000, whilst ClubsACT is not opposed to reducing machine numbers in Canberra per se, we welcome discussions on a fair method to achieve reductions in a way which is based on sound public policy principals and is mindful of the need to facilitate growth in the industry as Canberra itself grows.

While it is pleasing to see the government does not intend to forcibly take back machines to reach a target, the identification of 4,000 seems arbitrary and is not based on any research, analysis or consultation with stakeholders, nor in terms of a policy outcome.

A more sophisticated approach needs to be adopted to deal with the issue of machine reductions that takes into account the need to facilitate growth in the industry.

More generally, ClubsACT would strongly encourage committee members to view this legislation in the context of the broader economic circumstances clubs are facing and the risks which lay on the horizon.

Since the introduction of the first round of smoking bans in November 2006, clubs have had to absorb a series of significant regulatory changes which have had a significant negative impact on revenue.

In addition, the Federal Government's current plans to introduce mandatory pre-commitment technology remains as a very real threat to the viability of many clubs.

**Recommendations**

Recommendation 1:

The Gambling and Racing Commission should be asked to provide information on how it assesses Social Impact Assessments with a view to providing certainty to the club sector regarding issues such as over-concentrations of gaming machines in geographic areas of the ACT.

Recommendation 2:

The *Gaming Machine Amendment Bill 2011* be amended to allow the commission to issue an interim approval for a transfer of gaming machines, subject to a Social Impact Assessment being submitted.

Recommendation 3:

ClubsACT proposes that applications to transfer machines to a venue within the same group from a site that is closing should be treated and assessed differently to normal applications for transfer.

Specifically, applications to transfer machines from a closing site to other venues within the group should be approved automatically where the number of gaming machines to be transferred does not exceed 25 percent of the number of machines at the receiving venue and the venue can demonstrate that it can physically accommodate the additional gaming machines. Where the number of transferring machines exceeds 25 percent then normal approval mechanisms should apply.

Recommendation 4:

The *Gaming Machine Amendment Bill 2011* should be amended to allow for an interim approval of a transfer application to be granted which would provide confidence to groups who intend to bid for land.

Recommendation 5:

Information which is provided to the commission to support the transfer application should also remain confidential so that participants in the land sale process are not privy to the plans of competitors.

Recommendation 6:

To encourage the development of new club venues, the *Gaming Machine Amendment Bill 2011* should explicitly outline how preference for applications to transfer gaming machines to new venues will be considered.

Recommendation 7:

A pool of gaming machines should be created to allow independent clubs (non-group clubs) to apply for additional gaming machines where they can appropriately demonstrate need to the Gambling and Racing Commission.

Recommendation 8:

That any introduction of ATM daily withdrawal limits be introduced only after research is conducted into the effectiveness of such a measure in dealing with problem gambling. This research should be conducted once the discussions currently taking place at a federal level reach their conclusion.

Recommendation 9:

A daily withdrawal limit of $250 should only be required for ATMs in venues with 35 or more gaming machines.

Recommendation 10:

The *Gaming Machine Amendment Bill 2011* should be amended to define the 'gaming day' to 8.00pm – 5.00am.

Recommendation 11:

Advice should be sought from financial institutions and ATM service providers regarding the practicality of the implementation and enforcement of a daily ATM withdrawal limit. This information should be provided prior to any legislative changes giving effect to the measure being passed by the Legislative Assembly.

Recommendation 12:

The definition of 'good reason' in relation to when clubs are permitted to store gaming machines, should be expanded to include a decision by a club to temporarily store gaming machines for commercial reasons such as a downturn in gaming revenue.

Recommendation 13:

The *Gaming Machine Amendment Bill 2011* should be amended to remove the statement of intent to reduce machine numbers to 4,000 until a thorough review of machine numbers in the ACT is conducted and industry can be properly consulted on the best approach to address the question of the numbers of gaming machines that should be allowed to operate in the ACT, with a view to not restricting growth in the club sector as Canberra's population grows.

Recommendation 14:

The current Section in the *Gaming Machine Act 2004* which provides a legislative basis for establishing the cap should remain until the review into the number of gaming machines which can operate in the ACT is completed.

## CURRENT ECONOMIC CLIMATE AND CONTRIBUTION OF CLUBS

### Contribution of Clubs to the Economy and the Community

The Allen Consulting Group study of 2007[1] (the most recent comprehensive study) found:

Clubs in the ACT employed 2177 people in 2007 — 62% were casual workers and an additional 29% of workers were employed full-time. Large clubs provided 60% of total employment in the ACT.

Gross expenditure by clubs was about $208 million with more than $86 million being paid in wages, salaries and payments to contractors each year.

Between 2002 and 2007 the number of chefs in clubs in the ACT increased by over 270% and the number of maintenance and cleaning staff, and apprentices increased by around 105%.

Clubs in the ACT paid $60.3 million to employees in wages and entitlements. In addition, clubs paid $25.8 million to contractors.

Club expenditure on staff training in the ACT totalled $2.5 million in 2007, with 56% provided through formal training. Large clubs provided around 64% of all training.

Clubs in the ACT invested $40 million in capital expenditure with clubs planning to spend $189 million in the next three years.

Across all clubs, 79% of all goods and services sourced by clubs were provided by services within the ACT.

Licensed clubs in the ACT have consistently provided roughly double the required amount in community contributions. The contributions clubs make to the community span sport, infrastructure, charities, politics and just about every part of community life. Over the last 9 years, clubs have given more than $120 million to the Canberra community.[2]

While clubs contribute millions of dollars via the legislative requirement, there is of course an enormous amount of support clubs provide that cannot be so easily measured.

The sporting infrastructure that clubs support for the community to use is extensive as the table below demonstrates.

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[1] Allen Consulting Group, *A Social and Economic Impact Study of ACT Clubs*, http://www.clubsact.com.au, 2007

[2] ACT Gambling and Racing Commission, *Community Contributions Made by Gaming Machine Licensees 1 July 2010 – 30 June 2011.*

**TYPE AND NUMBER OF SPORTING FACILITIES PROVIDED BY CLUBS IN 2007 BY CLUB SIZE**

| Sporting facilities | Large | Medium and small | Total clubs |
|---|---|---|---|
| Bowling greens | 14 | 3 | 17 |
| Gyms | 4 | 3 | 7 |
| Fields | 3 | 5 | 8 |
| Golf courses | 3 | 2 | 5 |
| Swimming pools | 0 | 1 | 1 |
| Tennis courts | 5 | 6 | 11 |
| Squash courts | 8 | 0 | 8 |
| Billiard tables | 13 | 8 | 21 |
| Carpet bowls | 4 | 0 | 4 |
| Boat/ski facilities | 2 | 0 | 2 |
| Other | 8 | 2 | 10 |

Source: Allen Consulting Group, Survey of Clubs in the ACT 2007.

Significantly, clubs invest substantial amounts of money in new sporting infrastructure which benefits the entire community and relieves the government from the pressure of having to build and maintain sport and recreation infrastructure.

Clubs also offer an opportunity for volunteers to engage with the community. According to the Allen Group, in 2007, at least 2553 volunteers participated in ACT clubs' activities with an estimated contribution of at least 186 243 hours.

## A Sector in Decline

In the two years to 2008, club turnover reduced by 1.9% and the return to clubs from their activities has reduced by 3.6%. In the same period, the tax paid by clubs increased by 5.8% and the 09/10 ACT Budget indicated growth in tax receipts of 4% over the forward estimates.

This is reflective of the findings of the Economic Impact Study which found since 2002:

- There was a decline in total revenue by 2.7% to $272.5 million. Gaming machine revenue as a proportion of total revenue dropped by nearly 8%;
- Total expenditure by clubs declined by 14% from $240.4 million in 2002 to $207.8 million in 2007;
- The total value of capital assets fell by 22% between 2002 and 2007.

The decline in total revenue of 2.7% between 2002 and 2007 contrasts with a 14% increase in revenue in the five years to 2001. This underscores the deteriorating position clubs have found themselves in.

The table below provides some further detail regarding the fall in overall revenue between 2002 and 2007. Gaming represented 63% of all club revenue in 2007 and has experienced the largest decline in revenue.

**SOURCES OF REVENUE ($ MILLION)**

| Source of Revenue | 2002 | 2007 | Change since 2002 (Percentage point change) |
|---|---|---|---|
| Membership | $5.5 | $5.6 | 0.1% |
| Food | $18.4 | $17.1 | -0.3% |
| Bar | $38.9 | $51.2 | 4.9% |
| Facilities & venue rental | — | $3.4 | 1.2% |
| Gaming machines | $197.8 | $171.0 | -7.8% |
| Other gaming | $5.3 | $7.4 | 0.9% |
| Sports | — | $2.1 | 0.8% |
| Ancillary business | — | $2.6 | 1.0% |
| Cash grants and donations | — | $1.2 | 0.4 |
| Other | $14.3 | $10.0 | -1.1% |
| Total revenue | $280.2 | $272.5 | |

Note: May not add precisely due to rounding.
Source: Allen Consulting Group, Survey of Clubs in the ACT 2007; KPMG 2003.

## Falling Gaming Revenue

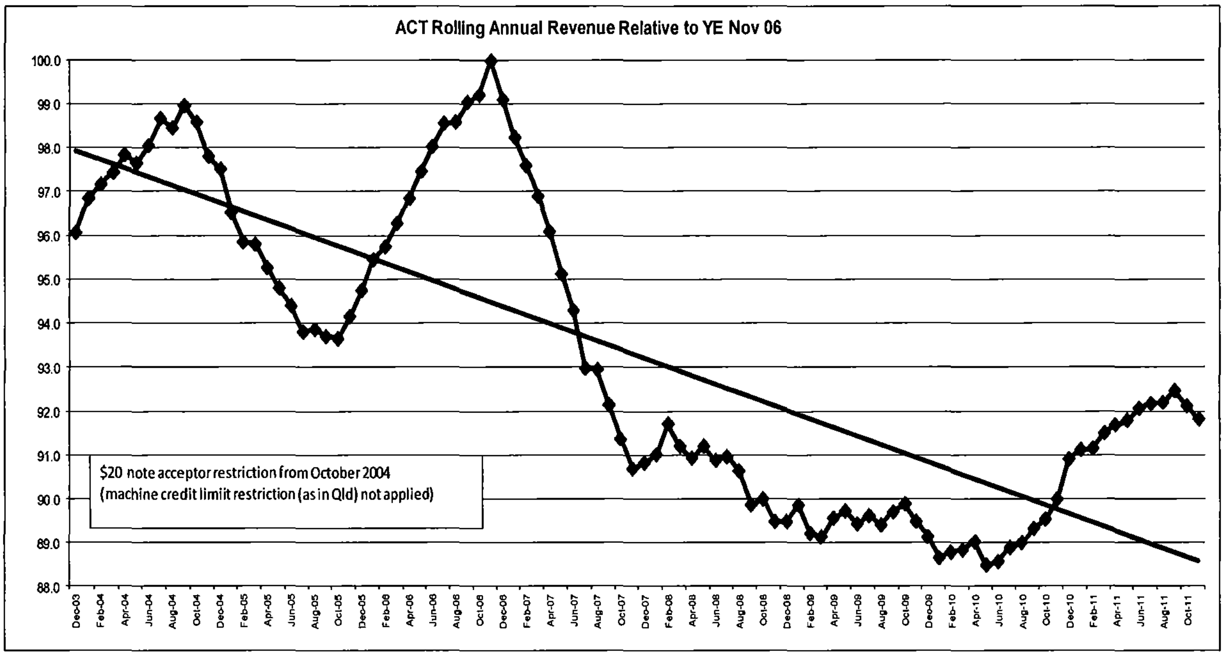
Between 2003 and 2010, Gross Gaming Machine Revenue (GGMR) fell by 22% in real terms if a Consumer Price Index (CPI) modifier is used. If the Wage Price Index (WPI) is used, the reduction in gaming machine revenue is in the order of 32%.

Adjusted for CPI, GGMR is down by roughly $100 million based over the last four years alone.

As the Allen Consulting Group study found, gaming represented 63% of all club revenue in 2007. It is highly likely that gaming would represent a smaller percentage of overall revenue in 2010 as a result declining gaming revenue and better performances in the other revenue lines of clubs.

The club sector generally has been forced to focus on non-gaming revenue streams in order to offset the fall in gaming revenue. This trend will no doubt continue however gaming revenue remains the foundation upon which clubs are based and the sector could not operate without that revenue.

The following graph illustrates the decline in Gross Gaming Machine Revenue in the ACT and provides a very graphic representation of the fall in revenue.

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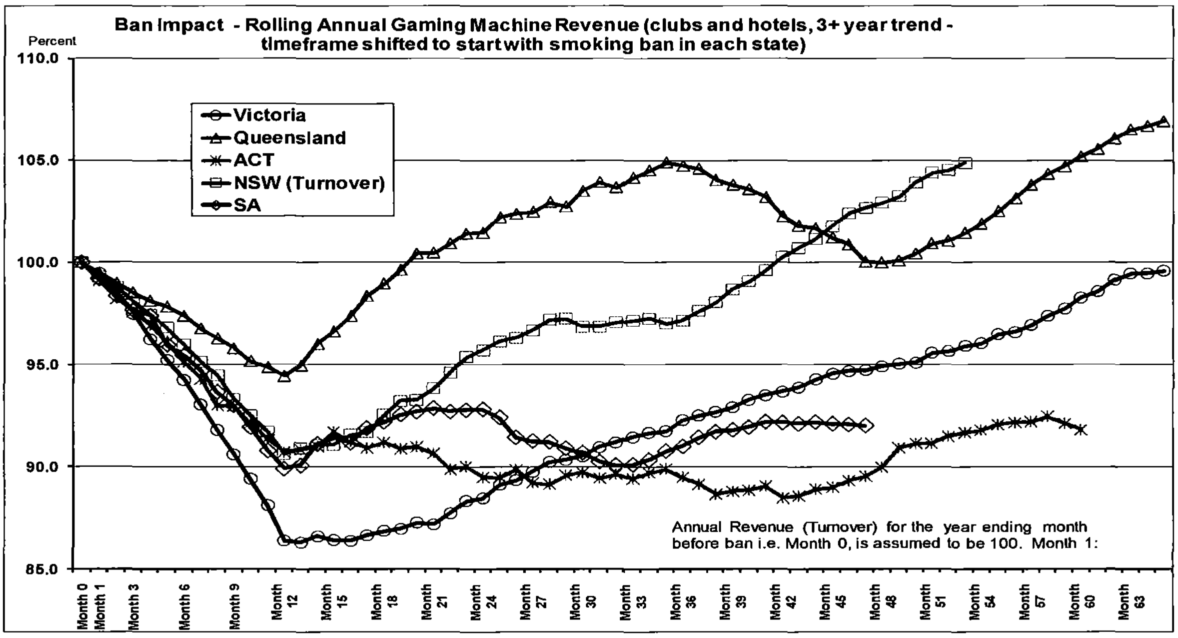
The graph clearly demonstrates the impact the first round of anti-smoking legislation, introduced in November 2006 (represented as 100 per cent on the chart), had on gaming revenue. The graph also illustrates the fact that the industry has not recovered from the losses borne as a result of the introduction of that legislation.

As the following graph shows, the ACT is has not recovered from the fall in revenue sustained in 2006/07, while most other jurisdictions have bounced back to pre-smoking ban levels.

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[3] Compiled using data from the ACT Gambling and Racing Commission.

The chart above has been time-shifted to reflect the relative impact of smoking bans on each jurisdiction. So even though smoking bans were introduced at different times in each state and territory, the graph illustrates the impact on revenue each month following the introduction of the ban.

The hard data clearly demonstrates that the principal source of income for the club sector in the ACT has fallen away dramatically and is unlikely to recover fully.

These are the economic circumstances that clubs are dealing with and it is essential that government view any further legislative or regulatory changes through the prism of needing to support an industry upon which so many individuals and community groups rely.

**Impact of Pre-Commitment**

While there may be debate regarding size and scale, it is generally accepted that the introduction of mandatory pre-commitment technology within clubs will have a significant negative impact on club gaming revenue.

International experience demonstrates that the revenue reduction could be as high as 40 per cent. Clearly no industry can survive a 40 per cent cut to their principal source of revenue.

The ACT Government acknowledged the potential impact when in it included the following in the 2011-12 ACT Budget Statement of Risks:

> "There is a risk of a reduction in the gaming machine tax revenue, through the implementation of the September 2010 agreement between the Prime Minister and Andrew Wilkie...Depending on the effectiveness of the pre-commitment scheme, there could be a negative impact on gaming machine turnover in the ACT with consequent impacts on club revenues, gaming machine tax collections and community contributions".

Given this, ClubsACT believes that the ACT Government should be focusing on what legislative and other avenues exist to support the club sector so that club revenues, government tax revenues and community contributions are not put at risk.

The *Gaming Machine Amendment Bill 2011* should be assessed in this context.

## SPECIFIC COMMENTS ON THE DRAFT BILL

**Group Club Transfer Scheme**

The long-standing and clear preference of ClubsACT is for an industry-wide trading scheme to be introduced which will provide flexibility for the entire industry. ClubsACT believes a scheme can be implemented which will be transparent, fair and effective.

While this remains our position, ClubsACT does not want the passage of the *Gaming Machine Amendment Bill 2011*, to be delayed as a result of any further investigation the ACT Government may wish to initiate into a possible industry-wide trading scheme.

ClubsACT has previously proposed a scheme to government and will continue to lobby for such a scheme to be introduced. The scheme is provided in Attachment A.

However, ClubsACT welcomes the attempt to introduce a scheme to allow clubs within the same group to move machines between their venues as a first step towards an industry-wide scheme, however a number of issues need to be addressed:

i) Application Requirements

The Bill requires clubs wishing to transfer gaming machines to submit a Social Impact Assessment and seek the endorsement of members as part of the application process.

In other words, the same application processes currently required for applications for new machines will be applied for applications to transfer machines.

Given applications to transfer machines will not lead to a net increase of machines operating in the ACT as would be the case for applications for new machines from the pool, there is a legitimate question as to what is an appropriate level of information required by the Commission in order to assess transfer applications.

As a matter of principle, any scheme which is designed to provide some flexibility must have rules which are not so onerous as to render the scheme itself unusable.

ii) Creating Uncertainty

Section 26 of the Bill allows the Gambling and Racing Commission to approve a lesser number of machines to be transferred than was applied for by the club based on, amongst other things, the assessment of the Social Impact Assessment.

The Section provides for the commission to amend the license of both the 'ceding club' and the 'receiving club' to give effect to the transfer:

> "However, if the commission is not satisfied under subsection (2) in relation to the number of machines stated in the application, but would be satisfied under subsection (2)... in relation to fewer machines, the commission may amend the licences to relocate fewer machines".

In practical terms, this introduces a degree of uncertainty over the outcome of applications they make to transfer machines.

Clarification is required regarding the fate of machines which are not approved for transfer. In other words, if a lesser number of machines are approved what happens to the balance, do they remain with the original license or are they forfeited?

One reason for the commission to approve a lesser number of machines than has been applied for is to prevent an overconcentration of gaming machines in any one area of Canberra.

However, there is no information which has been provided or, as far as ClubsACT is aware, is available which details the commission's view and opinion with respect to what constitutes an overconcentration of machines in any one geographic area of the ACT.

This is an issue which requires clarification so that certainty can be provided to the industry. In so doing, certainty can also be achieved with respect to applications to transfer gaming machines from one venue to another.

There are a number of ways to provide such certainty which should be explored.

One option would be for the commission to issue guidelines on the maximum number of gaming machines that can be approved in designated areas of Canberra (those 'areas' would need to be determined).

This would mean that the industry would be fully aware of the numbers of machines permitted in an area prior to applying to transfer machines out of one area and into another thereby removing the uncertainty created by the scheme as proposed in the Bill.

| Recommendation 1: |
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| The Gambling and Racing Commission should be asked to provide information on how it assesses Social Impact Assessments with a view to providing certainty to the club sector regarding issues such as over-concentrations of gaming machines in geographic areas of the ACT. |

Another alternative would be to allow the commission to issue an interim approval based on an application from a club which would simply include the numbers of machines proposed to be transferred between venues.

The commission could at that point issue an interim approval for a specific number of machines allowed to be transferred subject to the club completing a Social Impact Assessment.

| Recommendation 2: |
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| The *Gaming Machine Amendment Bill 2011* be amended to allow the commission to issue an interim approval for a transfer of gaming machines, subject to a Social Impact Assessment being submitted. |

Further, in the event of a club wishing to transfer poker machines from a venue that is going to be closed, any machines that aren't approved will presumably be lost and taken off the cap.

This level of uncertainty is unacceptable and will further erode the usability of the scheme.

ClubsACT believes that where a site within a group closes, that group should be able to retain the gaming machines from that site to be distributed amongst its remaining sites.

Recommendation 3:

ClubsACT proposes that applications to transfer machines to a venue within the same group from a site that is closing should be treated and assessed differently to normal applications for transfer.

Specifically, applications to transfer machines from a closing site to other venues within the group should be approved automatically where the number of gaming machines to be transferred does not exceed 25 percent of the number of machines at the receiving venue and the venue can demonstrate that it can physically accommodate the additional gaming machines. Where the number of transferring machines exceeds 25 percent then normal approval mechanisms should apply.

The ability of the regulator to approve a lesser number of machines than has been applied for becomes particularly problematic when a group wants to transfer machines to a new venue.

There are also a number of issues relating to the parallel process of a club group attempting to secure a block of land for a new club and navigating the machine transfer application process.

It is unclear whether a club can make an application under section 26C prior to purchasing a parcel of land and at what point during the application process will the Commission approve a number of machines to be transferred?

Or does a club need to own land and have plans approved as part of an application? The application to transfer machines requires details, such as planned capital expenditure on facilities, which may not be known by the club prior to the conclusion of the land sale process.

If a parcel of land with a club purpose clause becomes available for sale, at what stage of the process will clubs wishing to purchase it have assurance of the number of machines approved for that site? This is important when determining the value of the site. Is there a method for this to occur prior to the site being released?

Using the example of the site in the Gungahlin Town Centre which is earmarked for a new club, if a group interested in bidding for the land to establish a new club also makes an application to the Commission to transfer machines, it is possible that given the sequencing of these two processes, that a club may be the successful bidder for the land but have their application to transfer machines rejected.

The above questions highlight the confusion as clubs are not in a position to outlay a large capital investment on a chance the commission may or may not approve a number of machines. Clubs formulate plans and budgeting around a minimum number of machines required to fund and operate a new development.

Recommendation 4:

The *Gaming Machine Amendment Bill 2011* should be amended to allow for an interim approval of a transfer application to be granted which would provide confidence to groups who intend to bid for land.

Recommendation 5:

Information which is provided to the commission to support the transfer application should also remain confidential so that participants in the land sale process are not privy to the plans of competitors.

Finally, it is not clear in the legislation how the commission will assess applications to transfer machines to a new venue differently to applications to transfer machines to existing venues. Subsections (g) and (h) of Section 26C state in assessing applications to transfer machines to a new venue, the commission must take into account (amongst other things):

> "(g) the applicant's intended monetary investment in property, buildings and facilities at the new venue;
>
> (h) the amenities and facilities intended for the new venue compared to existing amenities and facilities in the local area around the new venue;"

The legislation is silent on how the commission will consider these matters and what impact they may or may not have on an application to transfer machines to a new venue.

Recommendation 6:

The *Gaming Machine Amendment Bill 2011* should be explicit regarding how applications to transfer machines to a new venue will be favourably regarded compared to applications to transfer to an existing site.

iii) Exclusion of Non-Group Clubs

The transfer scheme is only available to groups and therefore excludes all other clubs. With the abolition of the pool, this means there is no opportunity whatsoever for non group clubs to access new machines.

For example a small club may wish to expand or provide additional member amenities to secure long term security, to fund this, the club may need to increase gaming machine numbers. Under the proposed amendments this club would no longer have the ability to make an application for additional gaming machines.

Further, the proposed legislation does not provide for single sited or club groups without excess or under-utilised machines the opportunity to establish greenfield clubs.

Notwithstanding the desire to reduce overall machine numbers in the ACT, it is reasonable to still allow small clubs to access further machines if they can meet existing assessment criteria laid down by the commission.

This can be achieved by either introducing an industry-wide trading scheme or in the interim establishing a pool of machines which could be accessed by non-group clubs. Otherwise, independent clubs will remain excluded from the transfer scheme and without the ability to access new machines.

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| Recommendation 7:<br><br>A pool of gaming machines should be created to allow independent clubs (non-group clubs) to apply for additional gaming machines where they can appropriately demonstrate need to the Gambling and Racing Commission. |

**<u>ATM Withdrawal Limits</u>**

i) Unproven and Unnecessary

There is little evidence that suggests ATM withdrawal limits are an effective measure against problem gambling. Indeed, an ANU study produced in 2004[4] raised doubts regarding the effectiveness of ATM based methods of addressing problem gambling.

In its press release of 2 November 2004, the ANU stated:

> "The study, funded by the ACT Gambling and Racing Commission, did not find an unequivocally strong relationship between problem gambling and the use of ATMs in ACT gaming venues".

While the report did indicate that withdrawal limits may be a more effective measure than removing ATMs from venues completely, the study did find that:

> "The large majority of people surveyed usually spend the withdrawn money on drinks and meals while at the gaming venue".

Further, the issue of ATM withdrawal limits is being discussed at a federal level and while some jurisdictions (Victoria) have banned ATMs from venues, there is no agreement amongst the states and territories and the Commonwealth over the issue, so implementing this measure now is pre-empting the conclusion of those discussions.

ClubsACT believes policy making in this area should be based on sound evidence. It has been seven years since the ANU examined the issue of ATMs in gaming venues and before any measures are introduced, it is simply a matter of good policy to conduct research into the issue that can inform decision-making by legislators.

Indeed, the Problem Gambling Assistance Fund was established to conduct this type of research. Surely as policy makers, Assembly Members should be asking questions about whether measures designed to address problem gambling will actually work and what evidence exists to support any measure.

[4] ANU Centre for Gambling Research, *The Use of ATMs in ACT Gaming Venues: An Empirical Study*, 2004

Recommendation 8:

That any introduction of ATM daily withdrawal limits be introduced only after research is conducted into the effectiveness of such a measure in dealing with problem gambling. This research should be conducted once the discussions currently taking place at a federal level reach their conclusion.

ii) Impact on Small Clubs

Further, the impact of such a measure needs to be considered on those small clubs which have relatively few machines.

The Rugby Union Club is one example where a daily withdrawal limit could have a very serious impact on their revenue. The General Manager of the Rugby Union Club, Mr Jeremy Wilcox has stated the following:

> "The ATM legislation affects us directly – most of the money that comes out of our ATM is not put through the poker machines but is used for all sorts of other purposes. We are one of very few financial services in Barton and rely heavily on ATM commissions as a source of revenue".

It is important that small clubs are insulated from the impacts of the introduction of this measure.

Recommendation 9:

A daily withdrawal limit of $250 should only be required for ATMs in venues with 35 or more gaming machines.

One way of reducing the impact of a daily withdrawal limit on club members and guests who use the withdrawn money for non-gaming purposes is to not have the withdrawal limit in effect during times of the day when people are more likely to use any money withdrawn to pay for food and beverage.

The 2004 ANU study found that:

> "...on balance the study found that removal of ATMs from gaming venues would inconvenience a proportion of recreational gamblers and non-gambling patrons of gaming venues".

Recommendation 10:

The *Gaming Machine Amendment Bill 2011* should be amended to define the 'gaming day' to 8.00pm – 5.00am.

iii) Ability to Enforce

The Bill makes it an offence for the licensee if:

"the automatic teller machine allows a person to withdraw more than a total of $250 from all automatic teller machines at the licensed premises, using a single debit card or credit card, on a gaming day."

It is still unclear as to how a licensee can ensure that they do not breach this provision, particularly where there may be multiple ATM providers in the venue which would require different financial institutions communicating with one another to ensure not more than $250 is withdrawn in any one gaming day.

Clarification is required on how this provision will actually work in practice which should involve consultation with and advice from financial institutions and ATM providers on the practicality of this measure, particularly as it relates to the sharing of customer information between different financial institutions.

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| Recommendation 11:<br><br>Advice should be sought from financial institutions and ATM service providers regarding the practicality of the implementation and enforcement of a daily ATM withdrawal limit. This information should be provided prior to any legislative changes giving effect to the measure being passed by the Legislative Assembly. |

**<u>Ability for Licenses to be Amended</u>**

i) Ability to Store Gaming Machines

Section 26 (2) (a) of the Bill states that the ACT Gambling and Racing Commission:

"may amend the licence for a stated period in accordance with the application if satisfied that the gaming machines-

(a) Need to be removed from the licensed premises for a good reason;"

ClubsACT believes that a club should be permitted to store machines for a period of time if those machines, due to a temporary downturn in gaming revenue, are not generating sufficient revenue. This should be included in the definition of what constitutes a 'good reason'.

This will give clubs the ability to retain the machines for future use when gaming activity increases without the need to cede and reapply for machines.

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| Recommendation 12:<br><br>The definition of 'good reason' in relation to when clubs are permitted to store gaming machines, should be expanded to include a decision by a club to temporarily store gaming machines for commercial reasons such as a downturn in gaming revenue. |

**Intent to Reduce the Cap to 4,000**

In discussing options for the poker machine cap, it is important to understand the genesis of the cap.

The cap arose out of a Legislative Assembly inquiry into gambling and Kerrie Tucker's (former Greens MLA) second attempt to introduce a moratorium on new poker machine licenses being issued until the Productivity Commission's first report into gambling was issued and the Assembly could digest its findings.

As she said in the Assembly,

> "I placed a motion on the notice paper this week asking again for a moratorium on increasing the number of poker machines in the ACT until a national inquiry into the effects of gaming has been completed..."

Indeed, the cap was initially supposed to be in place for just 12 months and then reviewed in the context of the findings of the Productivity Commission's report.

There was a second reason the committee selected a 12 month period. The cap they had set, of 5200 machines was, to quote one committee member, Mr Trevor Kaine MLA:

> "the sum total of machines already held, plus applications already in hand which the commissioner feels that she could not reasonably decline to agree to."

To put it in other words, the Committee recommended the cap be set at the number of machines that were effectively in operation at the time and they set it for 12 months only because they knew there would be a need for more machines to be approved shortly thereafter.

The Committee acknowledged there would be growth in the industry and recommended that the Commissioner approve applications over and above the cap if they were from new clubs, particularly in Gungahlin.

So the cap started its life as a temporary moratorium but has remained in place ever since and assumed a permanency not initially intended.

It is interesting to note that even at the time of its introduction thirteen years ago, the cap had little room left and that remains the case today. In that period, Canberra's population grew by 45,400 or 14.7% to a population of 353,600 today.

If the number of poker machines we have in the ACT as measured against our population is considered by some as the relevant number, then clearly that number has fallen over that period and will of course continue to fall as the population grows.

Indeed, in 2002, the ACT had one gaming machine for every 20.1 adult Canberrans and New South Wales had one machine for every 19.8 adults. In 2010, the ACT had one gaming machine for every 17.9 adults compared to one machine for every 16.9 adults in New South Wales.

The number of machines we have *relative* to NSW is beyond our control which begs the question, why should the 'per capita' measure be the relevant yardstick by which we determine how many poker machines should operate in the ACT.

Indeed, if NSW were to reduce the number of poker machines they have, would the ACT then have to further reduce its cap simply to stay below NSW on the machines per-capita league table? NSW does not restrict their machines to not-for-profit venues so the situation they face is different making the exercise of comparing the ACT with NSW unreasonable.

A far more informative measure is the amount of money that is being spent on poker machines in the ACT. Data included in the ACT Government's Discussion Paper on the Gaming Machine Cap and Reallocation Scheme, released in May 2009 demonstrates that per capita expenditure on gaming machines in the ACT represents 1.5% of household disposable income which is below the national average of 1.6% and well below that of New South Wales which is 2.3%[5].

This was also the case back when the introduction of the cap was debated in the Legislative Assembly.

As Kate Carnell said during that debate in 1998:

> "Poker machines in the ACT have been around for some 20 years. It appears that the ACT has a very mature market in this area. When you look at the amount of money that ACT residents spend on gambling per capita, the ACT is well below the Australian average. That is something we should be really proud of, Mr Speaker."

In fact, one definite consequence of reducing the number of machines in the ACT is that the intensity of use of the remaining machines will go up. So we might move down the league table on the per-capita list but it will simply mean that we will move up the ladder on the intensity of use measure. Should that really be our objective here?

The debate about hospital beds is a reasonable point of comparison. Are bed numbers by themselves the key measure or is the number of procedures which the hospital performs a more useful piece of information?

The former Chief Minister, Jon Stanhope, was correct in 2006 when he said

> "We've done the hard work, we've done the research and we know that simply reducing the number of machines won't address a problem like problem gambling.
>
> "The Government's responsibility is to make sure our laws encourage responsible gaming and offer support to those who need it. We're not only doing that, we're doing it better than anyone else".

Even the Productivity Commission report acknowledges that by every available measure, the rates of problem gambling are falling across the country. This is the result of targeted measures which are demonstrably effective in dealing with problem gambling.

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[5] ACT Government, *Discussion Paper – Gaming Machine Reallocation Scheme and Gaming Machine Cap,* May 2009, page 10.

Reducing machine numbers is an incredibly blunt and ineffective measure if reducing the harm from problem gambling is the objective.

If the objective is simply to reduce machine numbers for the sake of reducing machine numbers then ClubsACT does not support such an approach. As we have stated before, there must be a sound public policy objective which underpins the decision to reduce machine numbers.

The fundamental concern about the 'natural attrition' approach to cap reduction is that this will be used as the basis for decision making by the regulator when it comes to assessing machine transfer applications.

The discussion should be focused on the public policy objective rather than whether the cap should be 5,000 or 4,000. Any discussion on gaming machine numbers cannot be had in isolation of the issue of how to ensure that as Canberra grows, people living in newer areas are not disadvantaged by not having access to a nearby club.

| Recommendation 13: |
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| The *Gaming Machine Amendment Bill 2011* should be amended to remove the statement of intent to reduce machine numbers to 4,000 until a thorough review of machine numbers in the ACT is conducted and industry can be properly consulted on the best approach to address the question of the numbers of gaming machines that should be allowed to operate in the ACT, with a view to not restricting growth in the club sector as Canberra's population grows. |

**<u>Removal of the Cap</u>**

Section 35 of the legislation effectively replaces the existing legislated cap of 5024 gaming machines with the new provision which states that the 'cap' will now be the number of gaming machines currently approved for use.

This also effectively abolishes the pool of machines that was previously available for clubs to apply to access. This means that unless there is a future change to the legislation, there will be no additional gaming machines available for clubs to apply to access.

This has clear implications for the growth of the industry and while ClubsACT restates its willingness to work with government to achieve machine reductions however we do not support the removal of the pool such that only through a future legislative amendment can a club, new or existing, access additional gaming machines.

| Recommendation 14: |
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| The current provision in the *Gaming Machine Act 2004* which provides a legislative basis for establishing the cap should remain until the review into the number of gaming machines which can operate in the ACT is completed. |

**Attachment A – Industry-wide Fixed Price Trading Scheme**

Why a Trading Scheme is Required:

In short, in the context of there being no gaming machines available due to the abolition of the pool, clubs that need more machines should have a way of accessing more and in the instances where clubs have currently more machines than they need, should have the opportunity to cede those machines.

The key point is there is currently no ability, let alone incentive, for clubs to reduce their machines numbers should they wish to. Providing a nominal financial incentive, in the form of a fixed price per machine for the purposes of trading, provides such an incentive.

Allowing movement of machines within the industry also relieves the pressure on increasing the cap to service growth.

How Would the Scheme Operate?

Trading schemes successfully operate in other jurisdictions and some work would be required to settle on a model that would be appropriate for the ACT. However, ClubsACT has provided the following as a suggestion.

In order to ensure transparency, the Gambling and Racing Commission would operate the scheme.

A fixed price per machine would be set specifically for the purposes of trading. The price would need to be appropriate to act as an incentive for clubs to offer machines up for sale whilst not representing too high a price for clubs to be able to buy them. A figure between $20,000 and $30,000 per machine would be appropriate.

Clubs that intend to participate in the scheme, to buy or sell machines, would register with the Commission. Clubs wishing to access more machines would be dealt with on a 'first come, first served' basis, as is the case now when the Commission receives applications for more machines.

Rules would be established that govern how many machines any one club could buy given the number available to be sold, thereby ensuring no one club can buy all the machines that are up for sale. This could be as simple as no single club could buy more than 20% of the machines registered for sale, as an example.

Payments to clubs would be made through the Commission to ensure transparency in the financial transactions.

The government may also charge a transfer fee of no more than 10% of the value of each trade. This would be paid by the purchasing club. The revenue generated from this could be used to cover the costs of the Commission's administration of the scheme.

All clubs can participate in the scheme.

The Gambling and Racing Commission will administer and monitor all trades.

The scheme could be trialed for 18 months to 2 years and any issues regarding its operation could be appropriately addressed then.

Issues

Treasury has raised objections to the notion of attaching a 'value' to poker machines. It is important to note that poker machines have a value already. Each machine raises a certain amount in revenue each year and therefore represents a value to the club.

Banks also attach values to machines and this is important for a club's ability to borrow. So machines demonstrably have a value already and an amount which is set explicitly and exclusively for the purposes of trading would not be introducing a 'value' to machines that did not previously exist.

Further, if there is ongoing income to the government from a fee charged for each trade, this will address Treasury's concern that clubs were granted machines without charge and therefore they should not receive a winfall gain from trading.

The fixed price would not need to change once established. There are however, options to factor in growth in the fixed price by increasing it by CPI annually, or to increase it by a fixed amount every five or ten years but industry does not see a need for the price to change. In the case of the price being clearly set for a defined period, then there would be no need for industry to lobby for the price to be amended.