



LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:

Mr PS Russo MP—Chair
Mr JP Lister MP
Mr SSJ Andrew MP (virtual)
Ms JM Bush MP
Mr JE Hunt MP
Mr ST O'Connor MP

Staff present:

Mrs K O'Sullivan—Committee Secretary
Mr B Smith—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE CASINO CONTROL AND OTHER LEGISLATION AMENDMENT BILL 2023

TRANSCRIPT OF PROCEEDINGS

Friday, 1 December 2023

Brisbane

FRIDAY, 1 DECEMBER 2023

The committee met at 10.01 am.

CHAIR: Good morning. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with the two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. With me today are: James Lister, member for Southern Downs, the acting deputy chair, substituting for Jon Krause, member for Scenic Rim; Stephen Andrew, member for Mirani, joining us by telephone; Jonty Bush, member for Cooper; Jason Hunt, member for Caloundra; and Sam O'Connor, member for Bonney, substituting for Laura Gerber, member for Currumbin.

This hearing is a proceeding of the Queensland parliament and is subject to parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone to either turn their mobile phones off or at least to silent mode.

BENNETT, Ms Carol, Chief Executive Officer, Alliance for Gambling Reform (videoconference)

COSTELLO, Reverend Tim, Chief Advocate, Alliance for Gambling Reform (videoconference)

CHAIR: I now welcome representatives from the Alliance for Gambling Reform who join us today via videoconference. Good morning, everybody, and thank you for joining us this morning. I invite either both of you or one of you to make an opening statement—the committee is in your hands—of up to five minutes, but we are fairly flexible if you go over five minutes. Carol, would you like to start?

Ms Bennett: Good morning and thank you. I note that my colleague, Tim Costello, is actually not with us at the moment. It is anticipated that he will join.

CHAIR: That is okay.

Ms Bennett: I would like to acknowledge the traditional owners of the lands on which we all meet today, but for me that is the Ngunnawal people, and pay my respects to their elders past, present and emerging.

We appreciate the opportunity to provide evidence to you today. The Alliance for Gambling Reform is the independent national body that represents more than 60 organisations with shared concern about the harm related to gambling and its normalisation in Australian life. The Alliance welcomed the findings and the recommendations of the report by the Hon. Robert Gotterson, the Gotterson review, into Star's Queensland operations which were broadly consistent with a nation-wide raft of inquiries into the integrity of casinos including in New South Wales and Victoria—Crown Sydney, Crown Melbourne, Star Sydney and Crown Casino Perth. All inquiries have ultimately found these entities unsuitable to hold a casino licence, with characteristic and widespread money laundering, criminal infiltration and gambling harm a feature of all reviews. Reverend Tim has joined us.

CHAIR: Welcome, Reverend Costello.

Ms Bennett: Gotterson's recommendation that the Casino Control Act 1982 be amended to reflect new requirements consistent with enhanced integrity, probity and harm minimisation as well as increased public confidence has enabled a number of important key recommendations to be brought into legislation, all supported by the Alliance. The key feature for us is the full, mandatory and binding precommitment that includes play and break limits. If designed with robust harm minimisation features—particularly binding and default limits—a mandatory card registered to each individual user

will have a significant impact on reducing gambling harm. This cannot be stressed strongly enough as, in the absence of these features, there is a potential for greater harm to be caused by the frictionless nature of the carded system.

It is also important that the mandatory identity linked card be linked to self-exclusion registers and all gambling products but not linked to loyalty schemes to prevent misuse of the system for marketing and promotional purposes and inducements from industry. De-identified data should be provided to government and researchers to improve responses to gambling harm. We do agree with the important privacy concerns that have been raised by the Office of the Information Commissioner of Queensland. It should enable individual users to opt into any communications from the gambling industry.

The Alliance recommends that Queensland consider introducing the Tasmanian model. It is set to be the first jurisdiction to introduce a mandatory precommitment carded system with binding and default limits. The default limits, or cash expenditure limits, are \$5,000 a year, \$500 a month and \$100 a day on EGMs and table games. Proof of income should be required to increase these limits and breaks in play should be inclusive of all gambling products. These were highlighted as strong options in the Gotterson inquiry. The Alliance also urges the design of the mandatory precommitment carded system be swiftly written into legislation—set out in regulations—to avoid a watering down of the critical features. Any legislation introduced in Queensland applicable to casinos should apply to all poker machines in the state to avoid shifting the problems and harms from casinos to the community in pubs and clubs.

In addition to recommendations from the Gotterson review, the Alliance acknowledges that the Queensland government has gone further to implement the recommendations in all Queensland casinos and placed greater responsibility on casino operators, including increased penalties. While we appreciate the emphasis placed on greater intervention to minimise harm, we are concerned about: the potential for breaches in privacy; potential uses of information for marketing and inducement purposes; and storage of information which must be held separately to the gambling operator. We have recommended a data vault system as used in Spain, France and the Netherlands.

The Alliance urges consideration of greater penalties for the purposes of deterrence and to avoid the cost-of-doing-business mentality that we have seen from various operators which have broken the law. Penalties consistent with the size and patronage of the casino or venue should be considered. The Victorian Gambling and Casino Control Commission has set a strong precedent of greater scrutiny and larger fines for Crown which have, arguably, acted as a strong deterrent from further wrongdoing.

In terms of aspects of the bill that could and should be strengthened, we would urge reconsideration of the 12-hour gambling limit which is not evidence based and research indicates a risk of harm to those who gamble for two hours a day.

The Alliance welcomes the recommendation for a code of conduct for safer gambling. This is an opportunity to ensure new technologies and product advancements are covered and that exposure to children from a harmful product that has the potential to cause significant harm is limited. The Alliance would like to acknowledge the Queensland government's efforts to remove stigmatising language from all Queensland gambling legislation. Terms such as 'problem gambler' and 'responsible gambling' are contributing to a culture of fear among those who find themselves harmed by gambling. It discourages people from seeking help and speaking openly about the risks that, as the country with the greatest losses and arguably harms in the world, affect us all.

Finally, we are aware of the extension of the disciplinary action for the Star which includes: a remediation plan; deferral of licence suspensions for the Star Gold Coast and Treasury Brisbane until May 2024; and the Special Manager's appointment until December 2024. The Alliance urges the Queensland government to demonstrate leadership and implement all recommendations from the Gotterson review with urgency and with the strongest controls in place. Anything less can only facilitate a return to the appalling situation of risk to the community from money laundering, criminal activity and harm that has been highlighted by every casino review in recent years. The community want and deserve the highest levels of enforceable regulation and protection from exploitation by gambling interests which make their profits by encouraging and promoting gambling losses. This protection from harmful industry behaviour should be a basic and reasonable expectation of every government in Australia. Thank you.

CHAIR: Thank you, Carol. Tim, do you wish to contribute to the opening remarks?

Rev. Costello: Yes. Let me just add that I think the bill is implementing recommendations 1 to 11 of the Gotterson review, but, as Carol has said, it is really important with the regulations that recommendations 1 to 5 are not watered down. We do not mind them being phased in but not watered

down. Those critical ones are: carded gambling with mandatory precommitment and default limits; collection of data shared with the researchers; and changes in terminology. We can speak to the other recommendations. In a macro sense, I am really hopeful that this bill, with Tasmania, leads Australia.

You may be aware—and Carol will refer to it—that we have had casino inquiries from Perth to right up the east coast and they have all found the same things. It was not lost on me that for five minutes there Star casino looked to be in the jockey position to buy Crown casino and then the royal commission actually showed its practices were worse. Those findings of criminal activity, money laundering and the most predatory gambling practices have been found in all casinos.

The second thing I would say—and Carol referred to us having the greatest losses in the world; 40 per cent higher than the other nations—is that in 25 years of speaking out on this issue, I have never seen greater public consciousness and support for gambling reform and yet nothing has actually happened. There have been \$3 billion plus record losses on pokies in my state of Victoria and over \$7 billion, a new record, in New South Wales. I do not know the figures in Queensland. In a cost-of-living crisis we are seeing record losses at a time of public consciousness and public cries for reform, which is why your work here on this bill is so important to lead and to get it right.

The final comment I would make is that you may have seen in the AFR today a report that over the last decade gambling stocks have increased at 10 per cent the ASX stocks' average, over 300 per cent. Super funds are in it; everyone is in it. They are meeting with Aristocrat and Aristocrat is the leader; it is an Australian exporter of pokies around the world. I mention Aristocrat because it was Aristocrat that designed for Norway the gold standard system of cashless cards that were universal and mandatorily binding in 2017, and it has been working brilliantly in Norway since 2017.

What you will hear often from the industry is, 'We need another trial. We need to see if this works.' We have had 10 trials already in Australia. The trial always pushes it out into the long grass. We do not mind trials if the word means there are some technical glitches, but when it comes to pokies, 'trial' usually has actually meant, 'We're not convinced.' It comes from the industry. This can work. We know it is working and we know it was Aristocrat's subsidiary that actually devised it in Norway and Aristocrat will actually make money with a card that has mandatory precommitment with default limits because they will get that business. This is really a very important bill to lead Australia. Thank you for the time. I will hand back to you.

Mr LISTER: I want to hark back to your submission regarding your view that there needs to be a separation between the sales of gambling products and the collection of the data from the card, and you have given examples from another jurisdiction. Can you focus in on how that particular conflict of interest might be enlivened in a practical way? What sorts of dangers are you concerned about?

Ms Bennett: The thing that concerns us is the link in particular if there is a mandatory precommitment carded system to loyalty schemes where we have seen the industry target people with inducements, promotions, advertising—that sort of thing—and that has the potential to increase further harm. In terms of the collection of data, the Office of the Information Commissioner has also outlined some of our concerns around the collection of data and the potential for that data to be used for promotion and advertising purposes and inducements, and that would be a concern for us. I think those controls around the use of information, the storage of information—those things are actually pretty important because we have seen breaches in the past. We have also seen people targeted when they have not opted in to receive information and to receive promotions. Those features are particularly important to us.

We would ideally like to see information held separately to the gambling venues. We certainly want to see it shared with government and with researchers in a de-identified form albeit, we acknowledge there are some circumstances where it will need to be de-identified. In general, that is a good mechanism for collecting information that will enable further harm reduction measures to be put into place. Those things are particularly important from our perspective and we do hope that this legislation will not open the floodgates to enable collection of information that further exposes people to more gambling harm.

Rev. Costello: Can I answer that question?

CHAIR: Of course.

Rev. Costello: The main reason we want them separated is two Productivity Commission reports into gambling in 1999 and 2010 found that 63 cents in every dollar going through a pokies machine is coming from someone doing harm. We used to use the old language 'problem gambler' and 'addicted'. We use new language now, 'doing harm'. The business model and the revenue and

profits are profoundly built on people who are doing harm. When it comes to a loyalty cards and incentives, being able to identify and offer incentives is 'doing harm' on steroids. That is what it has been.

The irony about the industry, that has long opposed the cashless card with binding limits and default limits where you are locked out, is that they have had these cashless cards in Victoria—it is called YourPlay and it is an incentive-based system. They have had the data. They have known who to target. They have also added a clause that it is voluntary if you want to exclude yourself so it is dressed up as responsible gambling. The truth is the industry has not wanted responsible gamblers because if you give people a card, like in Tasmania, it is not cash and so you get rid of the crime first of all. As the New South Wales Crime Commission said, billions of dollars of dirty money is going through pokies. No criminal will identify themselves with a card. Secondly, setting limits and locking in those limits before you play in front of that mesmerising zone where you lose all track of time and locking yourself out is the most responsible way for a person who wants to play—and we are not prohibitioners; adults should be allowed to play pokies—to actually play. That is why the industry has opposed it and yet they have had their own card, the YourPlay system, tied to incentives and loyalty. That is what has been going on.

Ms BUSH: Thank you so much for being here and for a wonderful opening. I think we all—certainly myself and my electorate—share a lot of the concerns you have raised. A lot of people are very concerned about what we have seen around disturbing and predatory behaviours occurring and the real need for gambling reform. So thank you for your very comprehensive briefing. You have referred to the Tasmanian model as showing some real leadership, particularly in that space around the full mandatory and binding carded play. I know you have included it in your submission, but for the benefit of getting it on the record again, where is Tasmania leading in that space and where do you see the opportunities for Queensland to create that safer environment, particularly for people who may be quite vulnerable?

Rev. Costello: They were doing it by regulation first; it was Michael Ferguson, the Liberal Treasurer in Tasmania. Labor then said, 'Actually we want that in legislation,' so it is now in legislation. Mind you, the industry is putting the weights on both sides, as you would expect. The most significant thing about that was actually saying, 'You have to set a limit—\$100 loss a day, \$500 a month, \$5,000 a year. You can increase that limit on proof that you have a whole lot more assets.' It is very simple. If you have a card without limits you could say, 'I've set a limit of a million dollars.' A card that is not universal or mandatory means, 'Oh well, I will just go to another pokies venue and I will play the old way and I will advertise that.' That limit actually is realistic. If you are James Packer or someone else you can just show that 'yes, I have more assets'. Set the limit—there is no problem doing that; it is easy to, do, but that is why it is so important.

Ms Bennett: It is critical that it is binding, so once the limit is reached within that time frame it cannot go further, so people cannot gamble beyond that. Those default limits are particularly important. Once they are set, they cannot be changed without that evidence. Just a note that the Gotterson review did recommend that this was a good model and should be considered in terms of the Queensland context. We strongly support that and would love to see Queensland leading when it comes to the implementation of that mandatory pre-carded commitment with defaults and binding limits. It would be a terrific thing. It would reduce harm. It would also address all of the other issues that have been identified, particularly money laundering and criminality that have gone hand in hand with this.

Mr O'CONNOR: Thank you for being here. You might notice on the public hearing sheet today that the Star Entertainment Group is not scheduled to appear. I think in the business we call this a Dorothy Dixier, but do you have any comment on their apparent lack of interest in engaging with this legislation?

Rev. Costello: Let me play a straight bat. It is extraordinary. I do not know their motivation. Licences are public licences. You do not get them just because you are a brilliant business. The duty with a public licence is for the government to protect the community. It is not Star's licence; it is the community through its government's licence. They should be here. I do not know why they are not here.

The other thing I would say is we certainly know that they are lying low. They have a sense that maybe they can reinvent themselves, and I would be very happy if they reinvented themselves more as restaurants, recreation and entertainment. In the case of Crown casino in Melbourne, which I know best, just 10 per cent of its floor space made 80 per cent of its profits; 10 per cent was the gambling floor. It is very hard to reinvent yourself.

When I think about Aristocrat and the great exports of pokies around the world, we will have debates about fossil fuels and coal. Having worked in World Vision, I know that coal in poor countries does provide electricity. There is at least an argument for the poor around coal. With the export of that which is the most toxic, pokies of Australia around the world, I can see a social benefit. If you can gamble recreationally, absolutely; but we know with 63 cents in every dollar, as the Productivity Commission says, this is damaging. I suspect lying low and not appearing might be the strategy. I do not know.

Ms Bennett: Can I add to that? The government has just extended disciplinary action for the Star, so has pushed it out. I would hope that given there is a special manager extended until December next year, this lack of appearance from the Star might be taken into account in their findings because, really, they should be accountable to the public. There have been significant failures and the very least they can do is show up and explain what they are doing about those failures because it is important. In terms of the varying issues that the government has raised, one of them being how critical this is to generating public confidence, I would have thought participating in this kind of inquiry would be pretty important to doing just that.

Mr O'CONNOR: Your submission talked about drafting a code of conduct and including people with lived experience of the harm that gambling can cause, community health organisations and gambling harm experts; that is, essentially people independent of the operators. Do you have examples of other jurisdictions where these codes of conduct are drafted in that way? Are there any examples you can provide to the committee of what you believe is best practice in that regard?

Ms Bennett: Victoria is currently working on its codes of conduct. It has so far done extensive consultation around online gambling codes of conduct which we have contributed to. They are very keen to cover the whole of the gambling space by looking at codes of conduct. It is a critical part of the process and certainly should be informed by a range of stakeholders, particularly harm reduction experts and people with lived experience. That has been the case in Victoria with the online codes of conduct that have been undertaken so far. There are some good learnings in there in terms of that consultation process and how extensive it has been. Mind you, it has been a lot of work pulling together all of that for all of the various stakeholders.

Going to the previous comment in terms of generating public confidence, knowing that the government is working with stakeholders beyond the gambling industry and developing these kinds of codes that have input from the community and people with lived experience expertise has been really important to generating public confidence. I would argue that is probably the most important aspect of that process. Tim, do you have anything to add?

Rev. Costello: No, I think that is exactly right.

Mr HUNT: Thank you, Carol and Tim, for your submission. You talked about supporting the collection of data through the carded gambling system. What scope of data would you like to see collected, and is there anything in particular that you are looking for with data collection?

Ms Bennett: In terms of the data that is being discussed in Queensland for collection, there is a scope of data collection activities outlined in the explanatory notes for the legislation. We would support all of that. It is really about ensuring that people are identified, the extent of time people are playing for, the types of harms and the type of products people are using. All of those things are critical to informing improvements to responses to gambling harm. Those sorts of things are really important. Tim, do you want to add to that?

Rev. Costello: Yes. I would add that what is remarkable about this area is that in state or federal health departments we do not actually have anyone working on gambling. We have people who are treating it as a financial counsellor sort of problem and there is regulation, maybe advertising compliance things, but never health. This is a massive health issue. Imagine still not having data about the number of people smoking. We think this has been an area that is missing, and it has then been compromised. Researchers at universities have not had access to data unless they have entered into MOUs with gambling companies. So much so that recently the University of Sydney taking money for its gambling centre from casinos in America and gambling companies here justified it by saying, 'That's the only way we can get access to data: an MOU, taking their money, being in partnership.' We all know that if it was a tobacco company funding universities looking into health there would be an uproar. That is actually what is still going on today when it comes to gambling. This is why these data provisions are incredibly important for forming policy based on empirical evidence.

Ms Bennett: In terms of data collection, going back to the Queensland government's focus on the increased responsibility of gambling operators, the data is pretty important to enforcing that. We have seen some significant failures in the level of responsibility that has been taken by operators to ensure that harm is reduced amongst their patrons, and obviously data is pretty important to that. Enforcement of that is quite important going forward, so it is quite important to get that right.

CHAIR: Member for Mirani, do you have any questions?

Mr ANDREW: No, I am good, thank you, Chair.

CHAIR: James or Sam, do you have a question?

Mr O'CONNOR: No, I am okay.

Mr MARTIN: Nothing further from me at this stage, Chair.

Ms BUSH: I am also interested in your submission around the use of language, the importance of removing language that stigmatises and the importance of calling it what it is, which is gambling, and not gaming. Can you expand on the importance of legislation and policies setting that right tone and how important that is?

Ms Bennett: It is pretty critically important. We recently saw with the national online inquiry into gambling harm that the name of that inquiry was changed for that purpose to reflect the fact that this is a harmful product we are talking about. It does have the potential to cause significant harms, and it is not just an individual responsibility when it comes to these harms. There is actually a collective responsibility and industry is part of that. It does reflect that collective responsibility. It is also about creating an environment that enables people to step forward, acknowledge they have been harmed, acknowledge they might need treatment, they might need help when they are experiencing harm, and to be able to more readily speak. We have presented people with lived experience to the Queensland casino inquiry, the Gotterson review. It is very difficult for people to step forward without being anonymous because of all the stigma attached to being seen to have a gambling problem. A public health approach—and that seems to be the direction the Queensland government is taking, which we welcome—is exactly how we need to deal with this issue because, like tobacco, alcohol and other harmful products, the response should be commensurate with the harm those products cause.

Gambling is no different to that. It causes everything from increased domestic violence, financial distress, mental health problems, anxiety, depression—everything through to suicide. We know there is significant harm from suicide related to gambling. We saw some research recently on that. All of those things are better served if we are approaching this from a public health perspective that accepts it is a harmful product, we should be mindful of the language we use around this, and it is not about blaming the individual. It is about acknowledging that Australia, as the country with the biggest losses in the world by a mile compared to the next country, is obviously experiencing a normalisation of gambling that does cause a great deal of harm as well. We really welcome this language and the adoption of these sorts of terms that do promote safer environments. Tim, do you want to add anything to that?

Rev. Costello: I often say, and I mean it seriously, that the American blind spot of guns is perplexing to us. The rest of the world looks at us and cannot believe the level of gambling losses. It is our blind spot, it really is. Those losses represent all that Carol said. I use the guns analogy because what happened here was effectively like the guns analogy. You have a second amendment, which is that every American has the right to a ball and musket rifle. I could live with that in America. That second amendment then technically became semiautomatics and the right to carry them. What happened with pokies is that they went from coin operated and pulling a lever, where they did not do hardly any damage at all. Once they were digital they became like the semiautomatic rifle and regulation just did not keep up with the freedom to play. Then the message was, 'It's irresponsible people. Gamble responsibly. It's not the industry'. They now had, in gambling terms, semiautomatic rifles and regulation was way, way behind, which is why we are in a mess unlike anywhere else in the world. That is what I would submit.

Ms BUSH: That is a really great example to help illustrate that. You are certainly right about the perception of guns in the US. Taking that and expanding that a little bit, I recognise it is a little bit beyond the scope of the bill, but you have referenced pokie machines being used in clubs and in a community setting. I just wondered if you wanted to expand on your comments on the importance of looking at some broader reforms and opportunities in Queensland.

Rev. Costello: The really tricky thing in my state, Victoria, was that with any greenfields development the government said, 'How can we actually get community on the cheap? Oh, we'll licence a pokies club, and they'll have the \$10 parma and some card activities and there's community.' Literally

pokies started owning communities. If you look at New South Wales, which has nearly 30 per cent of all the world's pokies in pub and clubs, it is extraordinary. It started literally with saying, 'We can fund community, particularly in the western suburbs, from pokies.' It then just got entrenched in public banning community planning, social planning. The truth is that Western Australia, which does not have pokies outside the Burswood casino, has higher levels of community participation, sport participation and recreation participation without pokies because it is actually what community always was rather than depending on a highly predatory addictive product. Thinking through that shift from dependence to community public good is really important.

Ms Bennett: I think our submission outlines this example, but if there is mandatory carded play with binding and default limits in casinos and people are reaching limits, they will just simply move that out to the community where there are pubs and clubs on almost every street corner if they want to continue gambling. It kind of undermines the purpose of having those really stringent features in place at the casino if they are not applied elsewhere in the community. It shifts the problems, the harms, out into those communities rather than centralising them like other countries in the world do. They have a destination place for gambling, and it is usually a casino. They do not have pubs and clubs in every community. We do, so we should be addressing both at the same time, because without doing that we are just shifting the problem around.

Mr HUNT: Sadly, we have to accept that the explanatory notes for the casino control bill 2023 will never be on anyone's top 10 reading list, so for the benefit of these proceedings could you outline in your words what you are looking for in the term 'friction' in this context?

Ms Bennett: Friction adds a level of restriction that then makes it more difficult to be harmed. I guess that is why we are saying, in terms of carded play, if it is frictionless and it is easy to do, it is more likely to harm people. Adding in those limits, adding in extra steps that enable people to have to achieve a certain bar, then makes it a bit more difficult for them to gamble easily, to exceed limits, to do that quickly and to be harmed. I guess that is how I would describe it. Tim, do you have a better way of describing that?

Rev. Costello: Frictionless is tap and go and there will be greater losses. Friction is saying, 'I'm playing a product that's potentially very harmful. I set a monetary limit and I set a time limit. I think about whether I can face my partner at home if I've lost more than \$300 tonight.' That is where the domestic violence comes in, which is contributed to from losses on pokies. Friction is saying, 'I'm really jumping these hurdles intentionally before I start playing.' That is what friction means.

CHAIR: The time for this part of the hearing has now concluded. I would like to thank you both for your contribution and for your ongoing advocacy in this area. I think I have listened to your organisation over many years and I have felt very encouraged that there is a voice out there.

Ms Bennett: Thank you.

CHAIR: Thank you for your evidence today and for your written submissions. They are very welcomed by the committee.

FOSTER, Ms Clare, Senior Privacy Officer, Office of the Information Commissioner

WINSON, Ms Stephanie, Acting Information Commissioner, Office of the Information Commissioner

CHAIR: I welcome representatives from the Office of the Information Commissioner. Thank you for being here. I invite you to make an opening statement of up to five minutes and then the committee will have some questions for you.

Ms Winson: Thank you for the opportunity to present to you this morning on the Casino Control and Other Legislation Amendment Bill. My name is Stephanie Winson and I am the Acting Information Commissioner. Unfortunately, the Privacy Commissioner is away on business so he is not able to join us today, but I am joined by Ms Clare Foster, our senior privacy officer. Before I start I would like to on behalf of the Office of the Information Commissioner acknowledge Aboriginal and Torres Strait Islander peoples as the first Australians with a deep connection to the land, seas and waters of Queensland and the Torres Strait. I would also like to acknowledge the traditional custodians of the lands on which we meet today, the Yagara and Turrbal people, and I pay my respects to their elders past, present and emerging.

As the committee will know, the Office of the Information Commissioner is an independent statutory body that reports to parliament. Our role is to facilitate greater and easier access to government information under the Right to Information Act and to assist agencies to safeguard personal information under the Information Privacy Act. Our statutory functions include commenting on issues relating to the administration of privacy in the Queensland public sector and identifying and commenting on legislative changes that would improve the administration of the Information Privacy Act. It is in this capacity that we are appearing before you today.

Our submission focuses on one very specific element of the bill, and that is clause 43 which will allow for regulations establishing mandatory carded play in Queensland casinos. Such regulations, if made, would oblige individuals to use the card linked to their identity if they wish to play games or carry out certain activities, such as purchasing chips. While we support the underlying policy rationale for proposing the changes to the law, it is our view that mandating carded play will have, as our submission notes, privacy impacts not only as it relates to the collection of identifying information when the card is issued but also as it relates to the continued collection of personal information generated through the use of such cards. Our submission notes that our colleagues in the Office of the Victorian Information Commissioner have previously addressed similar issues in that state, noting that the use of identity linked player cards will result in the collection of a substantial amount of transactional data, including personal information that is generated in the sensitive context of gambling activity.

We acknowledge that privacy rights are not absolute and that in this context a balance is being sought to be drawn between those rights and the public interests in facilitating gambling harm minimisation strategies and addressing the potential for illicit and illegal activities in Queensland casinos. As noted in our submission, we also appreciate that the Commonwealth Privacy Act applies to the handling of personal information by private casino operators which have a turnover of more than \$3 million per annum. This provides a baseline level of privacy protection. We describe this as baseline protection because the Commonwealth legislation is subject to compatibility with state legislation that permits the collection and use of personal information for specific legal purposes. To that end, we note and support the new restrictions on direct marketing in the absence of expressed consent that are contained in this bill which will provide some level of protection.

We also note that the proposed section 72E(2) (c) will allow for regulations governing the collection, handling and use of carded play. The challenge that we are identifying with this bill is that the detail of such collection and use of personal information is not sufficiently defined within the bill and instead is being proposed to be delegated to subordinate legislation. In our view this means there is uncertainty about the degree to which the Commonwealth act will be a safeguard. We wish to stress the importance of ensuring that mandatory carded play requirements are governed by sufficiently strong and clearly articulated privacy safeguards. This includes: only collecting such personal information necessary to administer and enforce carded play schemes; requirements for high levels of security of such information; and, given the quantity and nature of the personal information that stands to be collected by way of carded play, the scheme should be subject to constraints precluding the possibility of what we would describe as scope creep. Restrictions should be provided to ensure player data can only be used for purposes of harm minimisation and curbing illegality and not unrelated marketing or promotional activities.

In closing, our submission notes that it is our preference for privacy protections to be enacted in primary legislation to demonstrate sufficient regard to the institution of parliament and the rights of individuals. We thank you for your time this morning and we are happy to take any questions.

Mr LISTER: It is great to have you both here. Regarding your point about having primary legislation as the source of detail around matters of privacy that are of concern to you, given that the committee has oversight of subordinate and other legislation which comes up—and I stress I am a guest on this committee today—may I take it that the OIC will make a submission of some kind if the regulations ultimately emerge in a way that you feel is inconsistent with the views you have expressed here?

Ms Winson: Yes, we certainly will keep an eye on this. If this bill were to pass and the matter was referred to subordinate legislation, we would certainly be keeping an eye on the content of that legislation and would make a submission if we felt that was necessary.

Mr LISTER: Thank you

Ms BUSH: Thanks for your attendance. We probably will all have a similar question because I think the substance of your submission is around safeguarding from scope creep and only collecting data which is essential to achieve the purpose of the act. In other jurisdictions where they have progressed in this way, how have they proceeded? Have they looked at putting those safeguards in the primary piece of legislation? Have they prescribed by regulation? What have been some of the learnings from other states which have embarked on the cashless gambling process?

Ms Winson: We are not experts in gambling legislation so our interest in this has been fairly limited. Our understanding is that it varies across jurisdictions. Some have it in primary legislation; others have it in regulation. In Victoria, as we mentioned in our submission, we understand that it is in regulation.

Ms BUSH: Thank you.

CHAIR: Steve, do you have a question?

Mr ANDREW: No, Chair.

Mr HUNT: Just to reaffirm what the member for Cooper was saying, there will be a sameness in a lot of the questions, I suspect. You were saying that the process to collect information should not be used for cross-promotional purposes et cetera. Are you aware of jurisdictions which have had the data collections process in play through the card and cashless systems and then have spilt over into using the collected data for promotional purposes? Are there other examples where that has happened either in Australia or internationally?

Ms Winson: We cannot comment on whether that is evident in the casino context, but we have seen in privacy matters that this does occur in other contexts. I suppose the most high profile example in recent times in Australia was the ACCC taking proceedings against companies like Meta for the collection of data well beyond the sorts of things that they were selling products for. This is a very real risk in the privacy context that we certainly monitor and are alert to.

CHAIR: In relation to this legislation and the Commonwealth legislation and the collection of data, is there a solution as to how that would work? Could you give the committee an example? In your opening comments, you touched on that and said that this legislation alone will not fully protect people who use the casino without amendments to the Commonwealth legislation. Did I hear that correctly?

Ms Winson: I apologise if I was not very clear. What I am referring to is that the Commonwealth legislation applies but it is subject to state legislation that is compatible. In other words, if the law made here is compatible, it can still reduce the direct protections, provided it meets the general tenet of the Commonwealth legislation. The legislation sets out privacy principles and encourages certain practices, but specific state legislation could provide greater specificity that might actually have the impact of reducing those protections. That is the point we are trying to make.

CHAIR: Then to take it to the next level, does this casino legislation do what you say needs to be done?

Ms Winson: We are saying that the legislation currently is insufficiently clear. All it does is have an enabling provision for regulation-making that allows for the collection and use of data and information to support carded play. What we are proposing is that this bill not only should provide for regulation-making but also could, for example, provide for parameters around how those regulations should look such that it imbeds some of those protections more explicitly, and essentially invites the regulations to cover the areas and territories of protections that we would advance to protect privacy.

CHAIR: By having that in the legislation, rather than stand alone in the regulations?

Ms Winson: Yes, Mr Chair, that is what we are suggesting.

CHAIR: In your opening—and I may have misheard you—you said that the casinos have an annual turnover of \$3 million or \$3 billion?

Ms Winson: My reference there is to the application of the Commonwealth law. It only applies to casinos that have a turnover of \$3 million per annum or more. It does not apply to casinos that have lower turnover.

CHAIR: The other area of concern in relation to data collection is how the casinos use that information. I understand your concern there. Should all data collection be prohibited in relation to promotion? I am trying to understand that if you protect all the information, the casino does not have access to it, is that correct, if it is in the data vault and only handled by the regulator?

Ms Winson: That certainly is the discussion that we listened into on the Alliance because we were keen to understand how they articulate their view. Their proposal, as I understand it, is that information is not held by the casinos, but is instead held elsewhere. That certainly is an option that we would support. What that would mean is that they do not have the information to use for their purposes other than when they need it, and that would be, for example, to issue the card and make sure that only carded players play. The use of that information, therefore, is not able to be used in the way that was suggested and is certainly evident as a risk, and was certainly highlighted in Victoria, which is that if casinos gather that information, and gather all the information associated with the activities of the carded player, they could use that to continue to promote, lure and encourage further gambling activity, and that is the risk that we are drawing attention to.

Ms BUSH: Ms Winson, you mentioned in your answers to the chair around the opportunity to prescribe some of those parameters in this bill around data collection and retention. Did you have a view on what those parameters could be or should be now or is that something you could get to us or not? I was wondering if you were wanting a follow-up question around unpacking those parameters.

Ms Winson: Yes, we certainly could provide specific examples, but there are practices in other jurisdictions where enabling provisions in a primary statute that allow for regulation-making are much more specific and provide that regulations may be made provided they meet this, this and this. The sorts of things that we raised in our opening statement, and certainly in our submission, are the kinds of parameters that we could see crafted into the enabling provisions for making regulations that might just make this legislation stronger.

CHAIR: There are two steps for a person applying to get a card to become an established player. What minimum data should be collected to issue the card, do you think?

Ms Winson: We are not necessarily expressing an opinion on what sort of information should be collected. As a general rule, our view would be that the parameters are around how information is collected, it is the bare minimum necessary to achieve the objectives of a particular transaction such as this one where the minimum information that would be required would be identifying information and those further features that are specified in the explanatory notes to ensure that it meets the policy objectives intended with this reform. What is important to us, though, is that collection is a combination of clarity by the person providing the information as to what has been collected and why it has been collected and also what they consent to in relation to its use, transfer and sharing. Those are the parameters of the privacy principles set out in the Commonwealth legislation. They are very similar to those in our legislation, and they really are about making sure that the bare minimum information that is needed that is personally identifying is gathered and collected for this purpose.

CHAIR: I think the member for Cooper touched on this a little. Is my understanding correct that Tasmania has an effective working card system?

Ms Winson: I certainly heard the contributions from the Alliance on that, but we are not particularly familiar with the Tasmanian system.

CHAIR: Do you have any information you could tell the committee about the reciprocal office in Tasmania? Is there an Office of Information Commissioner in Tasmania?

Ms Winson: Yes, the Tasmanian information legislation is governed through its Office of the Ombudsman.

CHAIR: How would you propose that the personal information be adequately secured, as you referred to on page 2 of your submission?

Ms Winson: There are certainly multiple options available in this context. We did note the submission from the Alliance that it be held separately in a vault or something. Other alternatives would be that the information is held by the regulator. There are certainly a variety of technological

opportunities here. We would not necessarily express a preference. What we are suggesting is that it be held securely so that it is not used for purposes other than the intentions that are set out in the legislation.

CHAIR: That probably goes back to my earlier question as to what data should be collected, but if it is secure, then it is complying with the legislation as for the purposes of limiting the daily and monthly commitment to this activity?

Ms Winson: Yes, Mr Chair, that is how we understand it.

CHAIR: Thank you. There being no further questions, that concludes this hearing. Thank you for your attendance and thank you for your written submissions. I hope you have a good day. Thank you to everyone who has participated today and all those who have helped organise this hearing. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 11.11 am.