

SUBMISSION

TO THE

PRODUCTIVITY COMMISSION

INQUIRY INTO

AUSTRALIA'S GAMBLING

INDUSTRIES

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TERMS OF REFERENCE

Within the Terms of Reference, the Treasurer, Peter Costello makes reference in part to the following:-

BACKGROUND

“There is a need for a better understanding of the performance of the gambling industries and their economic and social impacts across Australia”

SCOPE OF INQUIRY

The nature and definition of gambling and the range of activities incorporated within this definition

- application of the mutuality principle and differing taxation arrangements - governing the gambling industries, including the implications of differing approaches for industry developments and consumers.....”

INTRODUCTION

The Hotel Motel & Accommodation Association of New South Wales is pleased to contribute to the Productivity Commissions inquiry into Australia's Gambling Issues.

Our organisation is expressing a view of which effects the equitable playing field of small business.

With further reference to the issues paper it is apparent that objectives of regulation include:

- ➡ maintaining and protecting a significant revenue base for government;
- ➡ limiting the exploitation of monopoly market positions.

The paper also highlights the taxing issue. Whereas some gambling providers - specifically the 'Club' Industry - are treated concessionally under the tax system. For example, under the 'mutuality principle' Clubs are exempt from income tax. Moreover, in some jurisdictions, Clubs face a lower rate of indirect tax on gambling revenue than other providers.

In addition funds derived from disproportionate taxation is moved out of core levels of business, which is taxed at a higher level.

EXPLOITATION OF MONOPOLY **MARKET POSITIONS**

It is evident that Clubs who move funds acquired from lower taxation levels attributed to higher levels of gaming activities have moved into other markets, eg. Accommodation.

Coopers & Lybrand address monopolies in their publications - Solutions for Business - Towards a Better Industry Policy. Under the heading 'An Industry Policy Framework' - policies designed to ensure that markets operate efficiently and there are constraints on the capacity to change or manipulate "market forces."

For some Industries, the costs of taxation are offset by the impact of tariff protection. Therefore there should be an achievement of a balanced and equitable sharing of the taxation burden between businesses such as the Accommodation Industry and the Club Industry who use mutuality principles to build properties to compete in a market place which is 'not' their core business. In fact, far removed from their core business.'

Coopers & Lybrand also note that 'markets should operate efficiently through provision of - and removing impediments to - competition.

It would therefore be necessary that the role of the government in areas of taxation on commerce be consistent, equitable and fully justified.

PRICING CONSTRAINTS

The Industry Commission produced a staff Information Paper in October 1996 regarding 'A Model of Investment in the Sydney 4-5 Star Hotel Market.' (3.3)

'In reality, room rates are also determined by factors such as the influence of wholesalers, marketing strategies and other pricing practices.'

The models discussed in this paper assume that all investors use the same discount rate. We argue that this cannot be the case when the influence of income of the 'core business' (gaming) of a Licensed Club influences the room rate and occupancy of other businesses who are competing in the same market, although this market is not the 'core business' of the Club.

NSW ACCOMMODATION TAKINGS

Takings from commercial accommodation are a measure of the business turnover of the tourism industry in NSW and is the largest component sector of the Tourism Industry nationally.

Providers of the accommodation sector range includes:

Bed & Breakfast

Guest Houses, Lodges

Retreats

Farmstay

Boutique Hotels

Private Hotels

Resorts

Motels 2-4 ½ Star

Hotels 2-5 Star

Eco-environmental Properties

Serviced Apartments, etc

The profitability of this sector of the industry provides an indication of the level of activity of the tourism industry in NSW.

Although room nights occupied increased overall by 3.2% in the June quarter 1998 compared with the June quarter 1997, occupancy rates fell for all accommodation types other than serviced apartments. The occupancy rate falls reflected increases in accommodation supply exceeding demand increases. Reference ABS 8635.0 - Tourism Accommodation Australia June Quarter 1998.

LESSONS LEARNT

The Small Business Deregulation Task Force held a review of Inquiries and Previous Reports on regulatory Reform, thus a Background Paper - August 1996.

ATO CONSULTATIVE GROUP REPORT

'The ATO has planned a systematic review of the Income Tax assessment Act, which is designed to remove anomalies, simplify definitions and rationalise the format of this Act.

For the most part, however these steps have dealt with more obvious options for reform. Still largely untouched are policy issues relating to the simplification of taxation structures through the substitution of different tax measures and movement towards more uniform tax rates.'

The Albany Consulting Group did not highlight the uniformed tax rates which can effect smaller businesses yet it did discuss businesses regulations affecting small business in general.

The Tax Office has been unsuccessful to apply the law in respect of tax exemption in relation to Clubs. It has been an argument that the Club's original purpose was not that of gaming. Although it may be agreed that the 'core business' in the current environment is gaming.

A recent test case - St Mary's Rugby League Club Limited vs FCT 97 ATC 4528.

The Court noted that should the club proceed with a possible motel development there would be a question over the intention of the Club being established for the purpose of sport.

It has been proposed that Clubs be subject to an annual audit for tax compliance.

It should therefore be asked, in the case of St Mary's Rugby League Club Limited:

- Does this Club comply with principle sporting activity.
- Is sport it's 'core business'?
- Has capital outlays made by the Club been applied principally to sporting activity?
- Has the Club sub-leased any activity during the audit year?
- What levels of mandatory contribution of revenue is donated to registered charities and community organisations.
- What commercial enterprises does the Club operate and do funds contributed to this enterprise come from a lower taxation base?

The Accommodation Industry is concerned that Tax reform must embrace effects on small business by Tax thresholds derived from Gaming. An example of this would be the 'pub' business who with gaming devices in place has no special tax concessions.

IN CONCLUSION

It is obvious therefore that gaming and business derived from the proceeds of gaming by Clubs in NSW are effecting small business. In the case of the Hotel Motel & Accommodation Association of New South Wales we wish to make a clear point - the Accommodation Industry.

Small accommodation providers believe in the ethics and principles of the National Competition Policy. Those principles being that a level playing field be maintained so that our members have the same opportunity in competing with the Clubs Industry who are subsidised by 'gaming.'

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