

CORRECTED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2011–12

Melbourne — 18 May 2011

Members

Mr N. Angus

Mr P. Davis

Ms J. Hennessy

Mr D. Morris

Mr D. O'Brien

Mr M. Pakula

Mr R. Scott

Chair: Mr P. Davis

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Witnesses

Mr M. O'Brien, Minister for Gaming,

Ms P. Armytage, Secretary,

Mr R. Kennedy, Executive Director, Gaming and Racing,

Ms C. Carr, Director, Gambling Policy, Research and Coordination, and

Mr S. Condon, Chief Finance Officer, Department of Justice.

The CHAIR — I declare open the Public Accounts and Estimates Committee hearing on the 2011–12 budget estimates for the portfolios of gaming, consumer affairs and energy and resources. On behalf of the committee I welcome the Honourable Michael O’Brien, MP, Minister for Gaming; Ms Penny Armytage, again — Groundhog Day 4 — Secretary of the Department of Justice; Mr Ross Kennedy, executive director, gaming and racing, Department of Justice; Ms Cate Carr, director, gambling policy, research and coordination, Department of Justice; and Mr Shaun Condron, chief finance officer, Department of Justice; as well as Ms Ann Crouch, manager, planning, performance and projects, Department of Justice, who will be operating the presentation only. Members of Parliament, departmental officers, members of the public and the media are also welcome.

In accordance with the guidelines for public hearings, I remind members of the public that they cannot participate in any way in the committee’s proceedings. Only officers of the PAEC secretariat are to approach PAEC members. Departmental officers, as requested by the minister or his or her chief of staff, can approach the table during the hearing to provide information to the minister, by leave of myself as chairman. Written communication to witnesses can only be provided via officers of the PAEC secretariat. Members of the media are also requested to observe the guidelines for filming or recording proceedings in the Legislative Council Committee Room, and no more than two TV cameras are allowed at any one time in the allocated spaces. May I remind TV camera operators to remain focused only on the persons speaking and that panning of the public gallery, committee members and witnesses is strictly prohibited. I am also pleased to announce that this series of budget estimates hearings is being audicast live on the Parliament’s website.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege. This committee had determined that there is no need for evidence to be sworn. However, witnesses are reminded that all questions must be answered in full and with accuracy and truthfulness. Any persons found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript to be verified and returned within two working days of this hearing. Unverified transcripts and PowerPoint presentations will be placed on the committee’s website immediately following receipt, to be replaced by verified transcripts within 48 hours after the hearing.

Following a presentation by the minister, committee members will ask questions relating to the budget estimates. Generally the procedure followed will be that relating to questions in the Legislative Assembly.

I ask that all mobile telephones be turned off or at least switched to silent.

I now call on the minister to give a brief presentation of no more than 10 minutes on the more complex financial and performance information that relates to the budget estimates for the portfolio of gaming. Welcome, Minister.

Overheads shown.

Mr M. O’BRIEN — Thank you, Mr Chairman, and I appreciate the time of the committee to make this presentation this morning.

As part of this presentation on gaming, I will outline the government’s plan for the gaming portfolio, provide details about the gaming portfolio budget for the 2011–12 financial year and also report on progress that has been made to date on the implementation of the government’s plan.

The government recognises, as I think our predecessors did, that gambling offers a legitimate entertainment choice for adults which is enjoyed responsibly by many Victorians. While the vast majority of individuals are able to gamble responsibly, there is no doubt there are a small number of people for whom problem gambling is a significant issue. This government, and I believe our predecessors, understands that problem gambling is a serious social issue. It also is a serious economic issue in the state, and I think the community expects us to do more.

In terms of the justice budget breakdown for 2011–12, gaming represents \$100.91 million of the DOJ budget, which is 2.3 per cent of that budget. I would like to bring to the committee's attention an error in the budget papers which has been found subsequent to their printing. There was a double counting of moneys going to and from the Community Support Fund. In budget paper 3 on page 259 there is a figure of \$165.6 million for the total output cost for gaming and racing. It says the gaming component is \$131.91 million. I have been informed by departmental officers that the gaming output price of \$131.91 million is overstated by \$31 million, so in fact the figure you see on the screen there of \$100.91 million is the correct one. That was caused as a result of a transpositional error. There is no change to the appropriations. There is no change to the money coming in or out as a result of it, but nonetheless I offer my apologies on behalf of the government and my department for that error and wanted to bring that to your attention as soon as possible.

The CHAIR — Thank you.

Mr M. O'BRIEN — Moving to our key priorities, obviously tackling problem gambling is absolutely essential for any government that seeks to regulate gaming. We have a number of different ways in which individuals are able to gamble in this state but, acknowledging that some people do themselves, their families and the broader community harm through problem gambling, there is a need to do more to tackle those issues.

We also want to reform gambling administration in this state, which I will refer to later on, and we also have the challenge of transitioning to the new gambling industry arrangements as a result of the various gambling licences which have evolved under the previous government, and we are now seeing the fruition of a number of those.

In putting our plan into action, in many ways the centrepiece of the government's election commitment was the creation of the Victorian responsible gambling foundation. The VRGF will be an independent body with a mandate to reduce the prevalence and severity of problem gambling in Victoria. It will be broadly modelled on VicHealth, which I think has enjoyed not only broad bipartisan support but also broad community support for the way in which it has tackled smoking, problem drinking and other health issues that affect Victorians. That is a matter which I am quite excited about. This will be in many ways a groundbreaking way of dealing with how we deal with problem gambling in this state. Instead of me as minister signing off on ad campaigns or signing off on research or signing off on what counselling and treatment services get funded, we will have an independent board that will be able to make those decisions.

When you look at the funding of it, it will be the most significant financial commitment to tackling problem gambling in Victoria's history — \$150 million over four years, \$37.5 million per year. That is a very significant amount of money. Just to provide a point of comparison, the former government's problem gambling program, known as Taking Action on Problem Gambling, represented \$132 million over five years. This is \$150 million over four years, which is a 41 per cent increase year on year.

Chair, you can see that graph there. I think that is an indication of the government's commitment to not only change the structures to better deal with problem gambling in this state but also our commitment to deliver the resources that are necessary to seriously tackle problem gambling in this state. As I have said, it is a 41.5 per cent year-on-year increase in the amount of funds allocated towards tackling problem gambling.

In terms of regulatory functions, we announced as part of our plan that we are going to establish a new regulator that brings together gambling and liquor regulation under one roof. This is something which has been previously quite effective in other states. There are a number of obvious synergies between the regulation of liquor and gaming. For example, you cannot have a gaming venue that does not have a liquor licence. You could actually have the frankly fairly absurd proposition where a gaming inspector could be on a licensed premises to examine compliance with gaming laws and that inspector could witness somebody breaching the responsible service of alcohol laws or under-age service laws and essentially could not do anything about it. We think that by bringing together the regulation of liquor and gaming under the one roof we will be able to create a new body with a new culture, we will get far better targeted resources towards education and compliance, and we will get a better outcome for the community as a result of that.

In terms of the timing of that, I look forward to introducing legislation to give effect to this commitment in the second half of 2011. We expect the regulator to be running at some stage during the course of the calendar year 2012.

Precommitment: the government's position is I think in many ways actually a bipartisan position. Current legislation in Victoria has provided that there should be precommitment technology available on machines at a future date. The position of, I understand, both sides of politics in Victoria has been that it should be available on gaming machines and be voluntary for players to use. I think there are a number of reasons why that system is a better system. I think if you have a system where people are forced to sign up for a card and provide identification of some sort, you will undoubtedly impact on a lot of casual, recreational low-risk or no-risk gamblers. A lot of those people may feel that it is not worth the time or the effort to undertake that process of obtaining a card in order to be able to play. There may also be privacy concerns depending on the level of tracking of an individual player's activities. I think that having a voluntary system respects the ability of the casual recreational player to play without going through a bureaucratic process.

It is also about effectiveness for the problem gamblers. If you read any of the literature on addictions — and problem gambling is a form of addiction as is drugs, as is alcohol and many other forms of addiction — there is the acknowledgement of the addicted player that they have a problem. That decision that they wish to change their behaviour is absolutely essential to be able to deliver better outcomes.

Where a voluntary system involves the player deciding to participate in it, acknowledging they have a problem and wanting to modify their behaviour, a voluntary system will work. Where there is a compulsory system, particularly a compulsory systems as proposed by the federal government where we understand there will be no requirement to set any limit, any problem gambler who does not wish to modify their behaviour can set a limit of \$1 million a day. Whereas a compulsory system will, I think, discourage people from taking ownership of their behaviour because there will be a perception that government is forcing them into a position, a voluntary system not only respects the position of those low-risk recreational gamblers but is far more attuned to dealing with problem gamblers because it makes them make a decision for themselves. They therefore have ownership of it and they are therefore more likely to abide by it.

We appreciate that that in itself is not enough. That is why a part of our policy was very much to put in place measures to reduce any potential social stigma for those who choose to use a voluntary precommitment system. We would do that by requiring, as part of the mandatory responsible gambling codes of conduct, that any gaming venue must actively encourage the take-up and usage of precommitment. We think there are ways which we could do that which will reduce, if not remove, any potential social stigma of people using precommitment technology in a voluntary system in such a way that people will be encouraged to take it up.

In relation to gaming licences, we have got some major logistical issues confronting us. The keno licence was announced in the last month. We still have a wagering licence and a gaming monitoring licence to announce. I am constrained in terms of what I am able to say about those processes because of the various probity reasons, but I would say that we have inherited a situation which had fallen behind where we would have wanted it to be. It had fallen behind the previous government's announced time lines. As a result, it will be more challenging for government and for industry to make that transition. But, acknowledging those challenges are there, certainly the government has the will to meet those challenges and looks forward to being able to deal with industry in a freer manner once those decisions are made in relation to those outstanding licences.

Other aspects of the government's policy that have already been committed to or are being implemented: the government took the position of no additional casino. Work that had been undertaken by the Department of Justice at the instruction of the former government in relation to a potential second casino in Mildura has been discontinued in accordance with the government's policy. We are also introducing legislation to ban the activities of lobbyists with respect to the issuing of gaming licences, as a probity measure, as recommended by Mr Ron Merkel from the independent gambling review panel.

We are keen to remove barriers to competition in the lotteries market. I think there have been some outstanding issues in relation to the way in which Tattersall's and Intralot interact and that impact on lottery agents. We are keen to work with all parties concerned to see if we can resolve some of those issues. We will also be taking steps to broaden the composition of the Responsible Gambling Ministerial Advisory Council so we have more community representation rather than perhaps some of the industry representation. We think that those who are not involved in the problem gambling sector and, to use the term, ordinary families have great interest in the direction of gambling policy in this state. They should have a voice at RGMAC as well.

The CHAIR — Thank you, Minister. We now have approximately 45 minutes available for questions on the gaming portfolio. Minister, I ask: how have predictions concerning population growth shaped the budget for 2011–12 and the out years for the discharge of your responsibilities in the gaming portfolio?

Mr M. O'BRIEN — Thank you for the question, Chair. Certainly an increase in population in Victoria will mean, at various stages, more adults, more gamblers and therefore potentially more problem gamblers. Increases in population will provide some pressure on problem gambling services and the way in which we regulate and ensure compliance with applicable gambling laws.

It is partly for that reason that in fact the government has significantly stepped up the resources that we are prepared to devote to tackling problem gambling in this state. As I said, \$150 million over four years is a 41.5 per cent increase on the previous program. We think that additional expenditure will very much assist us to deal with some of the challenges of a growing population.

Also we have some particular challenges with some new and emerging communities in Victoria. It is fair to say that different cultural groups have different relationships with gambling historically and culturally over time, and we find that there are some issues that can be identified in relation to some emerging communities in Victoria. As the government we are very keen to make sure we can get on the front foot in terms of information and education with those emerging communities so that we are able to provide them with the assistance and support they need to be able to minimise problem gambling and maximise treatment of it so that we can hopefully stop problems before they start.

Mr PAKULA — Minister, welcome. I ask you to turn to budget paper 5, page 148, which is the page which has taxation estimates. If you look at the difference between the 2011–12 budget and the 2010–11 revised figure, my maths tells me that gambling taxes over the 2011–12 year are estimated to be rising by \$76.3 million over the 2011–12 year. When you consider that the surplus is 140, a 76 increase in gambling taxes is a fairly significant figure. Could you tell me, Minister, how much additional money will need to be gambled by Victorians for the government's take to increase by \$76 million?

Mr M. O'BRIEN — Thank you, Deputy Chair, for the question. I should point out that aspects of the forecast increase in gambling taxes do not necessarily involve increases in the rate of gambling losses or increases in the rate of gambling. It can, for example, reflect taxation changes in terms of the rates. For example, the taxation that is applicable to the casino will be changing over the course of the period to which the Deputy Chair referred. That matter is a subject of historical record. There were some amendments that were made by the previous government which were put through the Parliament to increase the number of gaming tables operational at Crown Casino by 150, and in the quid pro quo for that was an increase in the rate of taxation of the gaming machines at the casino.

In this particular instance an increase in the rate of taxation can lead to a greater revenue outcome for the government without necessarily being based on any increase in gambling activity or gambling losses. So I am not sure that I am in a position to disaggregate the various factors here at the table. As I have indicated, changes in gambling taxation rates can certainly have an impact, and it would depend on whether the forecast increase is a result of changes in taxation rates or changes in estimated gambling activity.

It may well be that changes in gambling activity do not involve the same number of people losing more. We have previously discussed population growth. You can actually have a per capita reduction in gambling spend but a total increase in gambling spend because we have more people in Victoria. I do not know that I am in a position to be able to disaggregate the answer which the Deputy Chair seeks, but I would point out that increase in tax revenue does not necessarily reflect an increase in gambling losses.

The CHAIR — Do you wish to clarify, deputy?

Mr PAKULA — I do. Minister, you would note that of the 76.3 increase in revenue, only 17.9 of that is from the casino; the rest is elsewhere. So perhaps you could take that part of the question on notice, about how many extra dollars would be gambled to get an extra 76.3 in revenue. But can we just dig down to the EGM element, the extra 30.7 million in taxes on EGMs. You talked before about the difference between mandatory and voluntary precommitment. Have you got any estimates of how much that 1031 million would drop in an environment of mandatory precommitment?

The CHAIR — Sorry, I accept that it is a good question, but it is a separate question from the question that you asked initially. I do not regard it as a clarification in regard to this point.

Mr PAKULA — Chair!

Mr MORRIS — Minister, I would like to return to the issue of precommitment, and in that context I refer you to budget paper 3, page 258: the output section of budget paper 3. In that context the page indicates that the gambling regulation and racing industry development program will contribute to the department's objective to ensure responsible regulation. In that context I ask you: what will be the impact of the federal government's agreement with Andrew Wilkie on this government's election policies in the gaming portfolio?

Mr PAKULA — Is that why you ruled it out, because Mr Morris was going to ask it?

Mr M. O'BRIEN — Can I say we do not have any reliable figures on what might be the impact of any federal government policies at this time, mainly because the federal government policies are not clear. There was a federal parliamentary committee report which was handed down, I think, a week or so ago and which provided various recommendations, but the extent to which the federal government is prepared to accept any or all of those recommendations is not yet clear. So as a result of that, in terms of modelling, it is very difficult to know what you are modelling unless you know what the policies to be implemented actually are.

What I would say, though, is that it is very unfortunate that here in Victoria we have had to some extent a bipartisan position about the importance of precommitment and the importance of voluntary precommitment as part of that. That position, which has been adopted by the former government and this government, now appears to be jeopardised by purported federal government intervention.

We do think that this government went to the election with a clear policy in relation to precommitment, a clear policy that involved voluntary precommitment and we were elected with a majority in both the Assembly and the Council. By contrast, the federal government never went to their election with a gaming policy. They did not have one because it has never been traditionally an area of federal policy practice. The election result was that the Gillard government did not actually secure a majority in either house of Parliament, so we have a government with no policy and a majority in neither house of Parliament which now seeks to be attempting to prevent a government in Victoria, which did have an election policy and secured a majority in both houses, from implementing what it took to the people. I find that very unfortunate.

The danger is that the uncertainty could actually derail the implementation and the time lines for implementing voluntary precommitment that we have here in Victoria. The concern is that if clubs and pubs are unsure what technological platforms they will be required to implement because the state government position is at odds with where the federal government may be going, it will delay the rollout of precommitment — and problem gamblers will be the loser, which I think will be a very unfortunate outcome for all concerned.

Mr PAKULA — Thank you for the opportunity to go back to where I was heading. I want to continue to follow up on this issue of mandatory and voluntary precommitment, Minister. You have already indicated, in response to Mr Morris's question, that you do not have a number for what it would mean for the budget if the commonwealth's current proposal passes, which it may. You have talked about the previous bipartisan approach, but I would remind you that you have recently described the commonwealth's proposal for mandatory precommitment as 'the type of Big Brother, nanny state policy that Australians will instinctively reject'. I think I have your comment right. Back in 2008, when the former government proposed voluntary precommitment, your comment at the time was that the system was essentially useless without a guaranteed lockout policy forcing gamblers to stick to their limits.

It seems that you considered mandatory precommitment to be the only real answer back then; you consider it Big Brother, nanny state now. Is that primarily because if it came in, the government's budget surplus would be wiped out?

Mr M. O'BRIEN — I think the Deputy Chair has taken a quote and perhaps misunderstood what was meant by it. The quote to which the Deputy Chair refers is a reference to the importance of ensuring that precommitment technology is linked, that you should be able to have a precommitment device, whether it is a card or other form of device, and you should be able to go to any gaming venue in Victoria and it should be able to recognise and read your card and your activity and therefore advise you whether or not you have reached the

limits that you have set for yourself. Just to clarify that, there can be some terminology confusion between the notion of mandatory precommitment in terms of having it available on every machine. So it is mandatory to the extent that it is rolled out everywhere and you cannot operate gaming facilities without having precommitment technology on it, but it should always be voluntary for the player to use. I hope I can clarify the concepts of the quote that the Deputy Chair referred to.

Certainly the government's view is that this is about the effectiveness of tackling problem gambling; it is not about revenue issues. I would be delighted, the government would be delighted, if we could end problem gambling in Victoria. The amount of what the economists would call externalities, the negative costs that are imposed on society as a result of problem gambling, are significant. Think about the number of people who may be in the criminal justice system, including in jail, as a result of committing offences because of gambling addictions. If you were able to remove gambling addictions, you would be able to reduce a lot of the costs on the state elsewhere, so I do not see problem gambling policy being about revenue. It is about effectiveness. Our concern is, and I thought the previous government's concern was, that mandatory precommitment would not work and voluntary precommitment would.

Mr PAKULA — Just to follow up again on the issue of the surplus, bearing in mind that under your own estimates you are anticipating EGM revenue to rise by \$30 to \$31 million in the next financial year and given the nature of the debate that is occurring in Canberra, have you now asked your department to estimate what will happen to EGM revenue in the event that mandatory precommitment comes into effect, and could you give the committee any update on what advice you might have received about that?

Mr M. O'BRIEN — As I think I have previously indicated, it is very difficult to be able to model with any sort of effectiveness what the impact on gambling behaviour may be without knowing exactly what the policy proposals coming out of Canberra are. So I think it would be premature to be able to come up with any definitive numbers in relation to any budgetary impact of federal proposals when we do not have those proposals, we do not know if those proposals are going to be able to get through the federal Parliament and we do not know when they may take effect. So I think there is a need for more certainty before any sort of particularly useful or reliable modelling could take place.

Mr ANGUS — Minister, in your presentation you mentioned the gambling licence transition in 2012. I refer you to budget paper 5, page 154, where there is a sentence that says, 'The licences for wagering activities and monitoring, the allocation of which is still being determined, will commence in August 2012', and I ask: Minister, as far as you are able, can you please advise the committee on the progress of the gambling licences review?

Mr M. O'BRIEN — I thank the member for his question. I am somewhat limited in what I can say about the current outstanding licences, for probity reasons, but I would like to give the committee an update as far as I can within those constraints. I was a little bit concerned upon being sworn in as minister to see where we were with some of these gambling licensing processes. My predecessor as Minister for Gaming in a document entitled 'Overview of the Victorian Gaming Industry' for 2012, second edition, said that:

It is anticipated that the new licence —

in relation to the monitoring licence —

will be awarded in early 2010.

Then in a press release of 29 July last year it was stated that the wagering and betting licence was to be awarded 'before the end of the year' — that is, before the end of 2010.

We understand there is a lot of industry concern about the process and the time that it has taken. There is a great need to ensure probity in the way in which these processes are undertaken. I think there have been some, obviously, previous issues relating to the probity of other gambling licences, which has perhaps put a premium on ensuring with these outstanding licences in relation to monitoring and wagering and betting that we get them right, we follow the processes properly and we dot i's and cross t's. Given the amount of money that is at stake and given the importance of the issuing of licences, it is important that we make sure that probity is observed at all times. This, I think, has led to some delays in the process. I do understand that industry, and the community more broadly, would like some certainty on these matters — certainly I will endeavour to provide that certainty

as soon as the process allows me to do so. But it is probably useful to say at this point that the government does understand the concern, particularly in the industry, about this uncertainty and we will seek to resolve it just as soon as the process allows us to do so.

Mr PAKULA — Minister, I just want to go back to your presentation. In your presentation you talked about the lobbying ban. It is toward the back — the last page, in fact — ‘Banning lobbyists’. As I recall it you undertook to amend the Gambling Regulation Act to prohibit lobbying activities in respect to the process for the awarding of any gambling or wagering licence. That legislation had not been introduced prior to the awarding of the keno licence. Will that lobbying ban be introduced and passed prior to the awarding of the wagering licence or the monitoring licence?

Mr M. O'BRIEN — I am unable to state when the wagering and betting and the monitoring licences will be issued, for the aforementioned probity and process reasons. I am not trying to avoid answering the question, but I am just concerned that I would not want to inadvertently make statements regarding the timing of the issuing of any licences which could potentially be seen to provide information which should not be in the public domain at this moment for probity reasons. I am afraid that, for those reasons, I do not think I am able to answer the Deputy Chair's question.

Mr PAKULA — Do I get a follow-up?

The CHAIR — It is very difficult to get a follow-up on the basis of that answer, but you can try. Proceed.

Mr PAKULA — I understand that the minister might not be able to talk about the timing of the wagering or monitoring licences, but he can talk about the timing of the introduction of the legislation, and I would make the point that once the wagering and monitoring licences have been issued, I do not know that there will be any other licence issuings for the lobbying ban to apply to. Perhaps the minister could just provide the committee with some information about when the lobbying ban will be introduced.

Mr M. O'BRIEN — It is the intention of the government to legislate in the next financial year in relation to implementing its commitments in relation to the banning of lobbyists. I also make the point, through you, Chair, that our commitment was not simply to ban lobbyists in relation to the issuing of gambling licences; it was also in relation to any activity regarding the amendments of any licences. As members would be aware, there have been a number of instances where gambling licences have been amended following their initial issuing, and in relation to that there are activities which we believe should be better regulated, and we will be taking action to do so.

Mr PAKULA — So it is a lobbying ban that will be implemented after all the licences have been awarded. That is very useful!

Mr D. O'BRIEN — Thank you, Minister. I refer to your presentation and to the issue of the ATMs in gaming venues. Specifically I refer you to budget paper 3, page 258, with the statement that a gambling regulation and racing industry development output ‘will contribute to the department's objective to ensure responsible regulation’. I ask you, Minister: what are the government's plans with respect to ATMs in gaming venues, and how do they support the government's commitment to responsible gaming?

Mr M. O'BRIEN — I thank the member for his question. The issue of automatic teller machines in gaming venues is one which the Parliament considered in 2009, and the Gambling Regulation Amendment (Licensing) Act 2009 requires that all ATMs be removed from gaming venues by 1 July 2012. The former government provided that that was subject to some potential exemptions in certain cases. That was legislation which I think was passed on a strong bipartisan basis. This government certainly does believe that removing ATMs from gaming venues will be a very positive step in relation to tackling problem gambling.

There has been some concern that was raised when the bill originally went through the Parliament and subsequently about the potential impact on small country venues, particularly where a gaming venue may be the only ATM in town, and what this will mean for local communities. So we are ensuring the integrity of the legislation and the policy approach that has been adopted by the Parliament, but also recognising that there may be some exemptions which are provided for in the act. I have issued a ministerial direction to the Victorian Commission for Gambling Regulation in relation to the issue of ATMs. That direction provides, amongst other things, that where the commission is asked to exempt a venue from the ATM ban there are a number of matters

that must be taken into account: firstly, it can only be a venue outside the Melbourne statistical division; so it is only country venues that may be eligible to even apply; secondly, whether the venue operator who has made an application has demonstrated to the satisfaction of the commission that members of the community who are dependent on public transport or have limited physical mobility would not be able to reasonably access alternative cash facilities if the approval was refused and would suffer hardship as a result, particularly having regard to the distance to be travelled to access alternative cash facilities, and another factor is whether the applicant has demonstrated to the satisfaction of the commission that local businesses would be adversely affected if the approval was refused and that the community would suffer hardship as a result; and thirdly, whether the applicant has demonstrated to the satisfaction of the commission that it has consulted the community and that the community's views about the application have been adequately reflected in the evidence provided by the applicant.

So, Mr Chairman, we think that this ministerial direction provides a set of criteria which will ensure the integrity of the policy of the ATM ban which we are committed to, as were our predecessors, but also ensure that for those smaller, isolated country venues where the loss of an ATM may lead to significant hardship to the local community those issues can be considered. It certainly does not mean that there is any guarantee of any exemption; it simply means that an applicant can apply to the commission for consideration. The independent VCGR will make a decision based on the criteria that has been established.

Mr PAKULA — Minister, I just want to ask you about the same matter and the direction that has been given to the VCGR in determining whether or not to allow a venue to have an ATM machine. On the basis of the criteria that you have just described, has your department come up with an estimate of the number of EGM venues that will retain an ATM? Are we talking about 1 to 20, or are we talking in the dozens or in the hundreds? Can you give us a ballpark of what your expectation would be on the basis of that direction?

Mr M. O'BRIEN — The answer is no. This is not a set of criteria which is intended to deliver exemptions of any particular number of machines. It is a set of criteria that has been established with a view to ensuring in those particular circumstances where an isolated rural community may be significantly disadvantaged that an application can be made. But the decision will be made by the Victorian Commission for Gambling Regulation. It will not be made by a minister and it will not be made by the government per se, and because any application will be subject to those strict criteria and the ability of the applicant to adduce evidence that convinces the commission, it is very much on a case-by-case basis, and for that reason there has been no estimate of how many exemptions may potentially be granted under this ministerial direction.

Mr PAKULA — I do have a follow-up, Chair. It is good to see, Minister, that now that you are the minister rather than the shadow you are much keener on the separation of powers between the government and the VCGR, but this is actually a question of clarification. I had a look at that ministerial order, and as I see it the direction was given under sections 33.5 and 33E, F and G of the Gambling Regulation Act. I went to have a look at those sections, and I could not find them in the act. I went and asked the parliamentary library about it, and they told me that the relevant sections that were relied on to give that direction had not yet been proclaimed. Is that correct? I am happy if you want to take it on notice. Is it possible that you have given directions on the basis of provisions that have not yet been proclaimed, and would that be normal if it were the case?

Mr M. O'BRIEN — That is a matter which I am happy to take on notice and return to the committee with some clarification. I would make the point that seeing that the ATM ban does not apply until 1 July 2012, if the proposition put forward by the Deputy Chair proves to have some substance to it, there is certainly ample opportunity for that matter to be remedied. I do not have any information before me in terms of whether that proposition is one that does stand up.

The CHAIR — Minister, I refer to BP 3, page 258, and the statement that the gambling regulation and racing industry development output 'will contribute to the department's objective to ensure responsible regulation', and I ask: what is the government's position on the proliferation of sports betting advertising? Is the government confident that its regulations to protect the integrity of sports betting are sufficiently strong?

Mr M. O'BRIEN — Thank you, Mr Chairman. The government, like many in the community, is very concerned at what we have seen as being an explosion of sports betting advertising in our community. In some ways it has become very invasive. The line between advertising and editorial seems to be blurred on a regular basis. Many news reports about sporting events to take place seem to include an estimation of the odds that

apply to those particular contests. Whether it is while watching games at home on television or going to the ground, we are seeing more and more advertising encouraging people to undertake betting in relation to sporting activities.

I think there are a number of reasons to be concerned about the proliferation, Mr Chairman. One is that the more that advertising is put in people's faces, and particularly in relation to minors, the greater the risk there is that minors will be encouraged to gamble. Of course not only is that against the law but also it would be a very unfortunate outcome if minors were encouraged to gamble. So we think that a lot more needs to be done to tackle this. Because the state government does not have constitutional power over communications, the ability of a state government to limit this sort of activity or to better regulate it is severely restricted.

We have called on the federal government to use its constitutional power under the communications head to ensure this issue is thoroughly examined and acted upon. We note that a number of organisations, including the Australian Football League, have made comments that they are concerned about the proliferation of sports betting advertising and the impact that this might have on the family-friendly nature of these sorts of sporting events, but we think that the AFL and other sporting organisations have a role to play to try and deal with this. There seems to be a lot of willingness of people to take action, but there has been very little activity.

The Victorian government believes that the federal government should work with the states and work with sporting organisations and actually take some action to try and ensure that this area of advertising is properly regulated, because not only are there potential social issues in terms of encouraging minors to gamble or promoting or encouraging people to gamble who may then subsequently develop problems but there is also the issue of integrity in sports. The more that people bet on sporting events and the more exotic types of bets that are available, the more they do actually lead to the potential for players and participants in those sports to be encouraged to act in an inappropriate way, to take short steps and to worry about who is betting on what rather than getting on the ground and doing what they are required to do.

We think both from a sports integrity point of view and also from a social point of view the federal government should be taking action, and we stand willing to work with the federal government and sporting organisations to see that action is taken.

Mr PAKULA — I want to go back to the awarding of the wagering licence. I appreciate that you are not in a position to tell when it will be awarded. I think it is reasonable, though, to say that early in the year participants in the industry had it in their mind that it would be awarded at the end of the first quarter. We are now closer to the end of the second quarter than the first quarter. The concern that is emerging, Minister, is that we are getting so late in the day that effectively there would not be enough time for any other operator other than the current operator to get up and ready by August 2012. Are you able to give the committee an assurance that there is sufficient time for any operator who would happen to be awarded the wagering licence to be ready and in order by August 2012?

Mr M. O'BRIEN — As I did indicate earlier, I am severely constrained in terms of what I am able to say. I believe that the only responsible thing I can say is that the process is continuing and because the process is continuing one may infer that it is more than a one-horse race.

Ms HENNESSY — That is reassuring.

Mr MORRIS — Minister, I refer you to the government's stated objective to restore integrity and probity to the gambling regulation process in Victoria, and also to the output measure that I referred to before, the gambling regulation and racing industry development contribution to the department's objective to ensure responsible regulation, and I ask: can you explain the rationale behind the government's commitment to ban lobbyists, which has been referred to earlier, from gambling licensing processes?

Mr M. O'BRIEN — I thank the member for his question. Probity and fairness must be at the heart of all of Victoria's gambling licensing activity. We did see previously some significant issues with the probity of the awarding of various gambling licences in response to concerns that had been generated by the issuing of the former or the current lotteries licences. The Legislative Council determined to establish a select committee, which made inquiries and findings, and the government of the day determined to establish what it called the independent gambling review panel. That panel was and is headed by Ron Merkel, QC, a former justice of the

Federal Court. In undertaking an examination of the lotteries process to date the Merkel panel made a number of findings, one of which was — and I quote directly:

... it is now clear that, at an early stage of the licensing process, Hawker Britton was given preferred access to a licensing process document by someone in the minister's office.

These sorts of breaches undermine public confidence in the integrity of the licensing process, and we are determined to ensure that that does not continue under this government. The Merkel panel made further findings, and again I quote:

... the future probity requirements for a lottery or gaming licence process should ... prohibit lobbying activities in respect of that process once it commences.

It goes on to say that lobbying activities are:

... antithetical to the probity of the licensing process.

At the time there were various pieces of gambling legislation going through the Parliament. As shadow minister at the time I moved amendments seeking to impose this ban which had been recommended by the Merkel panel. The government of the day rejected those amendments. That is the genesis of the commitment that the current government made in its policy documentation leading up to the last election. We do not want to have a situation where lobbyists are walking into ministers' offices and walking out with documents they are not entitled to. Nothing is more guaranteed to corrupt the process and corrupt public confidence than this sort of unethical behaviour. On that basis the government did make a commitment to ban lobbyists from the licensing process in accordance with the recommendations of the Merkel panel. As I indicated earlier, the government will be implementing that commitment in legislation in the forthcoming financial year.

Mr PAKULA — Okay. We are going to make this about Hawker Britton. You are talking about the ban on lobbying activities and inappropriate lobbying and people walking out of offices with documents they should not have, so tell me this: will your ban on lobbyists include, for instance, the situation that occurred in your own case where you accepted, as I understand it, tickets from Tabcorp for the AC/DC concert and then awarded them the keno licence? Would that kind of behaviour be banned by the lobbying ban?

Mr M. O'BRIEN — I point out a number of things. The first is that it is entirely appropriate for members of Parliament on both sides of the house to engage with industry. It is entirely appropriate for members on both sides of the house — —

Members interjecting.

The CHAIR — It might not be some of our taste, but others — —

Ms HENNESSY — Oh, no, AC/DC's behaviour is not being impugned here, Chair.

Mr M. O'BRIEN — There seems to be a split at the table, Chair, in terms of my musical taste. I am happy to debate that for the next few minutes if you would like.

Members interjecting.

Ms HENNESSY — We have no issue with the talent of AC/DC — it is the probity and integrity of the minister that is in question here.

Mr M. O'BRIEN — Chair, I point out that there is very little influence — in fact I would say no influence — that a member of the opposition can have over the issuing of any sort of gaming licence.

Mr PAKULA — Who was the shadow minister and is now the minister.

Mr M. O'BRIEN — I was a member of the opposition at the time.

Mr SCOTT — That is an extraordinary position.

Mr M. O'BRIEN — There has been — —

Mr SCOTT — You may have become minister subsequently — —

Mr D. O'BRIEN — When have the Young brothers started lobbying government for anything?

Mr PAKULA — I think the question has been answered.

The CHAIR — You have gone long enough. I ask Mr Angus to ask his question.

Mr ANGUS — Minister, can you please advise the committee what funding is being provided by the government through the Office of Gaming and Racing's budget to assist flood-affected communities with financial counselling?

Mr M. O'BRIEN — It is perhaps not very well known that funding for generalist financial counselling services provided across Victoria is actually provided by my department through the Office of Gaming and Racing. Committee members would be aware that natural disaster events such as floods or bushfires can trigger significant financial hardships for many families, and it is important that as well as providing relief governments are conscious of the additional demand this places on services.

Earlier this year, following the severe flood events that affected much of Victoria, my department undertook an assessment of financial counselling services and determined that some areas required additional resources to service the anticipated extra demand. In April this year I was pleased to be able to announce almost an additional \$1 million for five financial counselling services in severely flood-affected regions to help them assist Victorian families who were suffering as a result of those dreadful natural events.

The agencies which are receiving funding are Community Connections in the Barwon-South Western region; Child and Family Services, Ballarat; Wimmera Uniting Care in the Grampians region; St Luke's Anglicare and Mallee Family Care in the Loddon Mallee region. Those areas were not the only ones affected by floods, however, we are confident that our existing store of financial counselling services will be available to meet with any increased demand in other areas as well. We will be monitoring those services, and if there is a demonstrated need for additional resources, then we will keep a very close eye on that and look to assist, because we understand that while the flood waters may have receded the financial impact of those flood waters on many families throughout Victoria is still very keenly felt. The government believes we have an opportunity and an obligation to assist those families, and we will do that.

Mr PAKULA — Minister, going back to the issue of precommitment, as you would know, the clubs industry are contributing to a fairly large campaign against precommitment. Are you able to give the committee an assurance that clubs that are contributing financially to that \$20 million campaign are not able to claim those contributions as an offset against their community benefit statement?

Mr M. O'BRIEN — I am not sure that I accept all the premise of the Deputy Chair's question. I think there has been a lot of speculation about the scale of the campaign concerned, and I note that it is a national campaign rather than a state campaign. I am certainly not aware that Victorian clubs are actively engaged in the campaign; it seems to have been something which has been predominantly New South Wales and Queensland-based. I am happy to take some advice on the current definitions of community benefits under the regulations and whether the sort of activity that the Deputy Chair has put would be regarded as being of committee benefit.

Mr PAKULA — So you will come back to the committee with an indication of whether any contributions to that campaign could be claimed against the CBS?

Mr M. O'BRIEN — I am happy to come back to the committee with some advice on how the CBS definitions work. Without having practical examples it may be difficult to be able to cover all the sorts of activities a club may wish to engage in, but I will seek to provide as broad an advice as I am able to as to how the CBS definitions work and whether the sort of advocacy activities that were alluded to by the Deputy Chair would be regarded as being of community benefit or not.

The CHAIR — Thank you, Minister. I think that brings us to the conclusion of this part of the hearing on the gaming portfolio. I would like to thank Mr Kennedy and Ms Carr for their attendance.

Witnesses withdrew.