Interested persons and organisations can make a submission on the issues raised in the Gaming Machine Harm Minimisation Measures Consultation Paper by completing this submission form.

This response form includes the questions from the Gaming Machine Harm Minimisation Measures Consultation Paper.

If you have any queries about this process please email the following address with the subject heading – Harm Minimisation Consultation Paper.

Email: liquorgamingandracingenquiries@justice.vic.gov.au

Submissions must be received by 5pm, Monday 16 January 2017.

Your details

<table>
<thead>
<tr>
<th>Name</th>
<th>David Baldi and Jacqui Hutchison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organisation (If applicable)</td>
<td>Mercury Group Victoria Inc.</td>
</tr>
<tr>
<td>Email address</td>
<td><a href="mailto:admin@mgv.org.au">admin@mgv.org.au</a></td>
</tr>
<tr>
<td>Address</td>
<td>D3.1 63-85 Turner Street, Port Melbourne</td>
</tr>
<tr>
<td>Telephone</td>
<td>03 9008 4868</td>
</tr>
</tbody>
</table>

Please note:

All submissions will be published on the Department of Justice and Regulation’s website.

Please ensure that your submission does not include confidential, commercial-in-confidence or personal information.

The department reserves the right to not publish information that could be seen to be defamatory, discriminatory or unrelated to the review.
Q.1. Is the current $200 per EFTPOS transaction limit appropriate? If not, what other regulatory measures would support the objectives of the Act?

The current $200 limit is appropriate

Mercury submits that it is not appropriate to reduce the limit to below $200 or to introduce a per-day limit.

A: Further restrictions (either reducing the limit or introducing daily limits) impede on the objectives of the Act.

1) **Fostering responsible gambling in order to minimise harm caused by problem gambling.**

   a) Further restrictions (either reducing the limit or introducing daily limits) will increase the incentive to “play down” winnings to below the cheque threshold in order to accommodate continued play.

   For example: A player withdraws $200 to play machines and wins $1200. Currently this player can take this $1200 as a cheque, and then withdraw another $200 to continue playing, having already “pocketed” the original win.

   If the player cannot withdraw any more funds or only very limited funds, then the player is less likely to "pocket" the original win and more likely to continue playing until the credit is under $1,000.

   A problem gambler is more likely to lose all the winnings if the EFTPOS limit is reduced or a daily limit introduced.

   b) If a daily limit is introduced, problem gamblers are more likely to bring more money with them to the venue, and then to spend all the money they bring.

   Even if problem gamblers report that restricting access to cash in this way will result in them spending less, Mercury submits that experience would suggest otherwise. Having been involved with the Self Exclusion Program in Victoria since its inception and administering the ClubsVIC self-exclusion program, it is apparent to Mercury personnel that problem gamblers respond to surveys positively when asked if restricting access to cash in venues will limit their expenditure. But in reality problem gamblers simply find other ways to access funds for their play. The reduction in gaming machine expenditure after the removal of ATMs has not resulted in an equivalent reduction in the prevalence of problem gambling which has remained relatively stable in the past decade.

   There is no evidence that further restrictions to EFTPOS will result in any reduction in the problem gambling prevalence rate.

   Schottler Consulting 2015 Report reported that problem gamblers access EFTPOS more often than non-problem gamblers. The Report **did not** conclude that further
restrictions on access to EFTPOS will result in less problem gambling expenditure.

c) Further restrictions will encourage the use of multiple cards by customers and especially problem gamblers.

d) Introducing restrictions on the number of EFTPOS withdrawals will limit the opportunity for staff interaction with customers.

e) Any person can impose a pre-commitment limit via YourPlay.

2) **Accommodating those who gamble without harming themselves**

a) Further restrictions will burden non-problem players with extra costs.

Cash dispensing safes have been installed in most venues as a safety measure against robbery. These safes avoid the necessity for gaming rooms to have large amounts of readily accessible float money for distribution to players. These safes are now generally accepted as an occupational safety measure that reduces the likelihood of hold ups. The cost of these cash dispensing safes is a per-transaction amount charged to the customer and can be up to $2.50 per transaction. Reducing the limit means more trips to the safe dispenser and higher cost to the player.

b) The incidence of people carrying cash has greatly reduced with the introduction of “tap & go” and phone-pay facilities. A $200 per-transaction limit accommodates non-problem gamblers who attend at venues and spontaneously “have a flutter”. These players should not be required to make multiple trips to the cashier, nor should they be limited to $200 a day.

c) Non-problem gamblers should not be inconvenienced by restricting the amount of money they can withdraw from EFTPOS at gaming venues and thus imposing an involuntary spend limit on gaming and other hospitality products.

d) EFTPOS facilities are used for non-gaming transactions at Venues and involuntary limits on cash withdrawals are an unacceptable imposition on a person’s liberty and access to their own money.

3) **Promote tourism, employment & economic activity**

a) Reducing the limit on cash withdrawals will reduce the amount that non-problem gamblers are likely to spend when on holidays. Holiday makers (especially international travellers) often do not carry large cash amounts and any further restriction on cash withdrawals will constrain the discretionary spend by visitors in Venues. See discussion at A2(b) above.

b) The cost of multiple withdrawals from the cash dispensing safes is uneconomical. See discussion at 2(a) above.

c) Introducing restrictions will negatively impact the multi-million dollar investments by Victorian enterprises. Reducing the quantum of non-problem gambling expenditure will jeopardise the viability of gaming businesses throughout the state with the consequential negative flow-on effects to support businesses and employment.
**Q.2.** Is the current $1,000 threshold for the payment of winnings by cheque appropriate? If not, what should be the limit and why?

Mercury believes the current threshold should be increased to $2000. Our members tell us their members ie. pokie machine players prefer to take their winnings in cash. As well an increase in the threshold amount would have the following benefits:

- Reduced administrative costs to the Venue
- May reduce the player playing down their winnings
- Reduce cashing of cheques by third party lenders

Mercury supports the requirement to out any accumulated credits to be paid by cheque upon request, as a safety feature for patrons who do not wish to carry large amounts of cash.

**Q.3.** Should payment by EFT be permitted in addition to, or as a replacement for, payment by cheque?

EFT should be available in addition to payment by cheque.
Q.4. Are there other payment methods that should be considered for the payment of credits / winnings?

No

Q.5. Should venue operators be able to exchange personal cheques for cash?

Current limitations are appropriate. Most venues have voluntarily stopped the cashing or cheques. However, to ban the practice completely would be an unacceptable impost on the discretion of venue management to make decisions regarding their operation and interaction with non-problematic regular customers.

Q.6. If cashless gaming and or TITO is introduced, how should they be regulated so that they are consistent with other measures that limit access to cash? What harm minimisation measures should apply?

The operation of TITO and other cashless systems (eg CardIT and plastic TITO) should be aligned with each other, and payouts onto these instruments reflect the legislated thresholds for cash payments, which we believe should be increased to $2000.

This would require that a machine will not produce a ticket for a payout of $2,000 or more, and cards will not accept credits that result in the card having a credit of $2,000 or more. This results in winnings of $2,000 or more being paid by cheque, even if resulting from cashless play.

Use of cashless-cards breaks down barriers for card usage and facilitates YourPlay participation. Having said that, making YourPlay participation a pre-requisite for cashless card gaming will discourage both cashless gaming and YourPlay. It should not be mandatory for a customer to have signed up for YourPlay to access cashless gaming.

Cashless gaming will reduce the incidence of players continuing to play so as to exhaust balances, and encourages players to take credits on cards/tickets for future play.

For example: a player who has a machine balance of $100 may be disinclined to endure the inconvenience of a book payment, and instead simply increase the
wager in order to play the balance down. This inconvenience is removed if the player can simply credit the $100 to the card and leave.

Q.7. What opportunities are there to improve the way codes operate in Victoria?

- Are there other models that would be more effective? If so, what are they?
- Would a more prescriptive approach for all venue operators be better? Could the operation of codes be simplified?
- Are there other matters that should be provided for in the Ministerial Direction for codes?
- What requirements for loyalty schemes should be included in a code to promote responsible gambling?
- Does the annual review process contribute to fostering responsible gambling? If not, why not? Are there other options to ensure that the codes meet this aim?

Are there other models that would be more effective? If so, what are they?

Industry Codes are more effective than regulations. Industry Codes are less formal and better understood by industry than regulation. Industry Codes can be changed more easily than regulation and respond more readily to accommodate new situations and improved knowledge. Industry Codes are not subject to the strictures that bind government regulatory processes.

Industry Codes should be devised for and by the industry stakeholders who are required to implement them, without participation by government or other parties.

Mercury members prefer to have the code devised by Mercury rather than the alternatives including:
- increasing regulations to cover matters currently required to be included in the code;
- being required to devise a venue-specific code;
- having a code imposed by non-industry personnel;
- having one industry-wide code.

It is submitted that the prevailing provisions for codes are appropriate.

Would a more prescriptive approach for all venue operators be better? Could the operation of codes be simplified

The current regulatory system for gaming is highly prescriptive, and there seems little opportunity to increase prescription. In fact the scope for operation of a code outside government regulation is very limited, and to a
significant extent the codes restate the legislation.

The Mercury Code is relatively prescriptive because Mercury and Mercury members consider it beneficial for venue operators to know clearly what is required of them. Mercury personnel have intimate knowledge of the operation of gaming venues, and can suggest workable responses to the Code-criteria set out in the Ministerial Directions.

It is submitted that by being prescriptive, the Mercury code is simple and easily understood by those who implement the codes in the venues.

As stated above, the code process allows for flexibility and responsiveness.

Are there other matters that should be provided for in the Ministerial Direction for codes?

The Ministerial Direction is sufficiently comprehensive and leaves sufficient scope for venue operators (and those who devise the Codes for them) to custom the codes to individual circumstances.

What requirements for loyalty schemes should be included in a code to promote responsible gambling?

The conduct of Loyalty Schemes is currently comprehensively covered in the Act and the Regulations and the Code. There is little scope for anything further to be included in the Code other than to restate the regulations.

Does the annual review process contribute to fostering responsible gambling? If not, why not? Are there other options to ensure that the codes meet this aim?

Yes, the annual review process does contribute to fostering responsible gambling by:

- Raising the awareness amongst management & staff of the code’s existence and the requirement to implement it. The annual review acts as a reminder to the venue personnel of their obligations in this regard.
- Increasing patron awareness of the code’s existence by inclusion in patron surveys.
- Providing the opportunity for venue personnel and patrons to provide feedback to code administrators on possible improvements to the code.

Are there other options to ensure that the codes meet this aim?

Instigating independent random audits for compliance may result in
increased vigilance in code implementation by venue staff and identification of non-compliance. Mercury conducts RSG audits of venues on a regular (as distinct from random) basis. Each venue is audited annually in addition to coordinating the annual review. These audits prove helpful to assist venues to improve implementation without the prospect of sanction. Random RSG audits by the VCGLR would not have the same effect. In fact random VCGLR audits, with the consequential sanction of s3.4.25(1)(i), will encourage the “dumbing down” of codes to avoid any accusation of under-performance.

Audits cannot assess effectiveness of the code nor provide for feedback for improvement.

Q.8. Should the requirement to interact with customers who are showing signs of distress from gambling be part of codes, or should a separate offence be created for venue operators who fail to respond to suspected problem gambling?

It is submitted that it is beyond the expertise of gaming room staff to “suspect problem gambling”. Gaming room staff can only be expected to identify certain types of behaviour, and not to make a diagnosis of “suspected problem gambling”. Even if certain behaviour is detected, no diagnosis should be made and intervention must be restricted to what is appropriate from a non-qualified person.

Requirement to interact is already part of the Code. Compliance with the code is a mandated by the Act and repeated non-compliance with the code can lead to disciplinary action under the Act. Hence, the requirement to interact with customers is already mandated.

Inclusion of a separate offence for non-intervention will raise the standard of proof necessary to obtain a conviction. The imposition of criminal or quasi-criminal consequences will mean that those charged with this offence will enlist lawyers to ensure that the elements of the offence are “read down” in favour of the accused, and lead to a body of law that necessarily will prescribe conduct but not outcomes. A rigid set of rules will prescribe what has to be said and done in order to avoid prosecution, and what amounts to “suspected problem gambling”. These rules will take on the status of precedent that is inflexible, non-responsive and objective not subjective. The introduction of a separate offence would defeat the spirit of an industry code which provides for a pastoral, individual approach.

If the elements of the offence are not “read down”, then one will expect a plethora of vexatious accusations by persons seeking to establish a case to sue for refund of losses. Even if a remedy for “breach of statutory duty” is unavailable, there remains the real possibility for extortionate demands for refunds of losses in order to avoid a charge.

The suggestion is quite unsustainable.

Problem gambling cannot be equated with drunkenness. Problem gambling is far
Q.9. Are self-exclusion programs best administered by the industry or by another body?

The industry developed the self-exclusion regime and generally supports the programs.

The current model (with 2 co-operating programs) has operated successfully for over 7 years now. The existence of 2 programs presents no detriment or obstacle to those seeking exclusion, and has some benefits. Applicants have a choice of programs and regional applicants are advantaged by the existence of the Clubs program.

Q.10. Should there be one self-exclusion program in Victoria?

The current 2-program system is cost effective, and the competition between the 2 providers keeps the cost down.

One provider would lead to the usual monopoly problems with no control over the cost. The administration of the programs should not incur a financial impost on persons seeking self-exclusion and a minimal financial impost on the venues.

Q.11. How could self-exclusion programs be improved?

The current system is appropriate. The Victorian program is superior to those in other jurisdictions.
### Q.12. Is the annual review useful or are there other ways to report on program trends and compliance?

The same considerations as apply to the annual review of the codes apply to the annual review of the self-exclusion program. See discussion at Q7.

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### Q.13. Should there be a separate offence for venue operators who knowingly allow self-excluded persons to enter or remain in the venue?

No. see discussion at Q8.

The imposition of a separate criminal or quasi-criminal charge for knowingly allowing self-excluded persons to enter or remain in the venue would lead to persons taking steps to ensure that they cannot be said to “know” that a player is self-excluded or that the player is in the venue.

The result will be to discourage vigilance, not encourage vigilance.

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### Q.14. Should a new requirement to undertake advanced responsible service of gaming training be introduced?

No comment can be made until the contents of Module 2 of the new RSG training is assessed. As Module 2 is not available to be undertaken yet, no comment is made on this.

Given the rigours of Module 1, it is suspected that there will be little need for an advanced responsible service of gaming course.

Managers and supervisors at gaming venues are not qualified counsellors or psychologists. It is not appropriate to expect that they behave as if they are, nor that they are led to consider themselves properly qualified because they have undertaken RSG training, even advanced RSG training. Gaming room staff can only be expected to identify certain types of behaviour, and not to make a diagnoses of
“suspected problem gambling”.

It is submitted that it is beyond the expertise of gaming room staff to “suspect problem gambling”. Gaming room staff can only be expected to identify certain types of behaviour, and not to make a diagnoses of suspected problem gambling.

Q.15. If so, who should be required to complete the advanced training and what content should the training include?

See discussion at Q14.

Only very senior staff at venues should have any role in intervening with suspected problem gamblers.

Problem gambling is a recognised, documented pathology that requires a qualified person to diagnose and to treat (even with intervention).

Problem gambling is a recognised pathology, included in DSM 5. Inexpert diagnosis and/or treatment can be harmful. It is important that the training emphasise the limitations of gaming staff and not create the expectation, in the staff or others, that the training qualifies gaming staff to diagnose or treat problem gambling. Training should be limited to how gaming staff can direct persons to access qualified assistance, nothing further.
Q.16. Who should be responsible for the development and provision of the advanced training?

If an advanced course is required (which is not conceded) the course should be developed by the industry in consultation with an RTO recognised and experienced in gaming and licensed hospitality (eg William Angliss).

Q.17. Do you think regional caps and municipal limits should be maintained? Why?

Issue is taken with the proposal that there is evidence that numbers of gaming machines has any causal relationship with the incidence of problem gambling. In fact the data is to the contrary – Delfabbro 2008.

The statistics quoted from the 2009 Storer et al study that proposed an increase at the rate of 0.8 problem gamblers for each additional gaming machine is not supported by the Victorian experience where numbers of machines have increased in specific areas without a commensurate increase in problem gambling prevalence rates.

The incidence of problem gambling in NSW is not significantly more than in Victoria despite four-times the number of machines. Reducing numbers in specific areas in Victoria has not produced a decline in problem gambling (Delfabbro 2008).

The specific caps are arbitrary, there is no data to support the 1/1000 municipal caps or the regional limits.

Q.18. Should regional caps be extended beyond the existing capped areas and if so, why?

No.

In fact, the limits adopted by the state government should be strictly enforced, and VCGLR, Councils and VCAT should be bound to enforce these limits, and not impose their own arbitrary limits which are usually based on average densities in metropolitan and regional areas. Average density is not a relevant consideration especially considering the state government’s policy that the appropriate density is 1/1000 or the current cap.
Q.19. Are the current regional cap and municipal limit levels appropriate?

| The caps and limits are arbitrary and there is no evidence that they have any effect on problem gambling. |