

CLUBS SA

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2nd September 2010

Gambling Policy
Department of Treasury and Finance
GPO Box 1045
ADELAIDE SA 5001
AND BY EMAIL: gamblingpolicy@sa.gov.au

Dear Sir/Madam

**RE: GAMING MACHINE ENTITLEMENTS APPROVED TRADING SYSTEM CONSULTATION
PAPER JULY 2010**

We refer to the above paper and welcome the opportunity to make submissions on the paper as requested.

We note that the paper refers to previous submissions which Clubs SA made in response to the previous Consultation Paper on the draft amendments to the Gaming Machines Act 1992 released on 22 September 2008, in particular as to the Approved Trading System.

We note that the July 2010 Consultation Paper has considered a number of the submissions which we made on the last occasion and while not adopting all of our submissions has nonetheless incorporated some of those matters in this latest paper.

We have considered the July 2010 Consultation Paper and the recommendations contained therein and provide the following response on behalf of our member Clubs.

MARKET DESIGN OBJECTIVES

We note the 6 underlying market design objectives for the System, namely that the market model be:-

- Low risk
- Fair
- Simple
- Low cost
- Transparent
- Voluntary

We acknowledge the benefits of those objectives and have considered them in our assessment of the Paper and our response.

We acknowledge that any approved Trading System must be voluntary and can see the merit of allowing all Licensees, whether they be Hotel or Club, being afforded the opportunity to participate in the Approved Trading Scheme.

UNIQUE POSITION OF LICENSED CLUBS

We applaud the statement on page 13 of the Consultation Paper that **"the Government is committed to a strong Club sector"**.

We also note the support given to the Club Industry by Anglicare SA and the submission that "such operators (community not for profit clubs) will not be disadvantaged by the introduction of this amendment, **and the proportion of the market share they manage be sustained in the distribution of Licences in South Australia"**.

While Clubs SA supports the market design objectives in principle, it is our submission that the Approved Trading System should be designed so that the unique positive contribution made by licensed Clubs to the Gaming Industry and to the wider community and public interest generally is maintained and strengthened rather than diminished.

It is our submission that the market system, if applied to Hotels and Clubs without any safety net, will not achieve the wider public benefit and positive contribution of a viable and vibrant licensed Club Gaming Industry.

CLUB PRIORITY

We note Item 4.3 Club Priority in the Consultation Paper.

There are 2 assumptions made in that section of the paper which we say are fundamental to the consideration of the unique position of licensed Gaming Clubs, namely that:-

"Clubs are well placed to operate in an Approved Trading System without a fixed price"
and

"All other things being equal, the concessional tax rate means that a Gaming Machine Entitlement will provide a higher net revenue flow to Clubs and to Hotels".

The trading history of Gaming Machines in the licensed Club industry as opposed to the Hotel industry, clearly establishes that while the above statements may well be accurate in theory, in practice all other things are not equal and that the reality is that licensed Clubs with Gaming are not able to participate in the Approved Trading Scheme on a level playing field with Hotels. A fundamental difference is of course that the licensed Club industry operates for the benefit of the community with all profits being diverted back into the community through the provision of improved facilities for social and community groups and the like.

Hotels operate on a completely different basis. They are "balance sheet driven", with an emphasis on asset value, growth and high returns. As a result their capacity to access funds for acquisition (whether in the form of retained earnings or borrowing capacity) far exceeds that of Clubs. Further, there are many small Clubs with Gaming that simply cannot "grow" their business. As a result, Hotels able to participate would far outweigh Clubs. We would suggest that the ratio could be as high as 10:1.

We again note that according to the OLGC Annual Report 2006-2007, in the period 2003-2007, Clubs lost 16% of their Gaming venues compared to only 2.6% for Hotels.

We note that as at 30 June 2010 the total number of "live" machines in Clubs amounts to 10.5% of the total number of "live" machines in all licensed venues. Also, as at 30 June 2010 we note that there are 61 Club venues operating Gaming Machines as opposed to 500 operating under a Hotel or Special Circumstances Licence. There is already a clear imbalance in the number of machines operating in, as well as the number of actual, Club venues, as opposed to the number of machines operating in Hotels. There is a real risk that this proposed model for the Approved Trading System will result in a further diminution of a number of Club Gaming venues and a number of Gaming Machines operating in those venues with a consequent reduction in income for Clubs longer term with an inevitable reduction in services provided by Clubs to the community at large.

PREVIOUS TRADING ROUNDS

The figures will show that previous trading rounds in Gaming Machine Entitlements have resulted in a move of GMEs from Clubs to Hotels. As we have said, not many Clubs are in a position to apply to purchase additional Gaming Machine Entitlements. It is reasonable to assume that with each trading round there will be a move of more Gaming Machine Entitlements from the Community Club to the Hotel industry. The most likely end result will be a much reduced number of licensed Club offering Gaming facilities, with those Gaming Machine Entitlements passing into the private ownership of the Hotel industry.

From an economic, open trading scheme point of view that may well be desirable. From a community and wider public interest point of view it is our submission that such a result is wholly undesirable. It is reasonable and fair to assume that a licensed Club which may not be trading as profitably as hoped might be forced to sell one or more of its Gaming Machine Entitlements. The reality is once those entitlements have been sold it is highly unlikely that they will ever be returned to the Club industry.

While we agree in theory, "**all other things being equal**", the Act permits licensed Clubs to purchase Gaming Machine Entitlements in the same way as it permits Hotels, all things are not equal and the reality is that Clubs will not be able to participate in the trading rounds to the same extent as Hotels.

PROPOSED VARIATION

Again we acknowledge the market design objectives and the 6 principles guiding the proposed market model.

It is our submission that the Approved Trading System as proposed in the Consultation Paper of July 2010 be varied in one minor but significant manner. It is our submission that our requested change can be adopted without comprising the market design objectives of the market model.

CLUB ONE – LAST OPTION TO PURCHASE

For the reasons stated above it is our position that there is a clear public interest in seeking to retain Club held GMEs in the Club industry.

The one variation of the proposed Approved Trading System which we have identified in the Consultation Paper of July 2010 is to give Club One the last option to purchase any GMEs offered for sale by licensed Clubs in the Approved Trading System. The effect of this proposal is that where for example a licensed Club offers for sale through the trading system a Gaming Machine Entitlement, and where the successful bidder for that entitlement is from the Hotel rather than Club industry, Club One will then be given the right to purchase that GME at the price identified as the appropriate sale price to the Hotel Licensee.

The public interest benefit would be that Club One would be given the opportunity to purchase that GME and thereby keep it in the Club rather than Hotel industry. The proceeds of that GME will then flow to the community rather than to the private Hotel industry.

In terms of the impact of this proposed amendment to the system identified in the Consultation Paper, the 6 market design objectives will not in our view be compromised to any significant degree. In our view it will make the system slightly less simple but again not to any great degree.

SUMMARY

We see the attraction of a simple transparent approach to the Approved Trading System. It is not our intention to compromise the integrity of the system. Rather, our intention is to protect the community Club share of the Gaming market and the financial benefits which can flow from it for the benefit of the community through the licensed Club industry. It is our submission that giving Club One the last right of refusal to purchase GMEs offered for sale by Clubs in any trading round is a simple yet efficient way to achieve the desired outcome of retaining a viable licensed Club industry while not distorting the market trading system. Nor will the change proposed affect the overarching policy objective of accelerating a reduction in the number of Gaming Machine Entitlements in South Australia.

In our submission it is clearly in the public interest for Gaming Machine Entitlements to remain under the control of licensed Clubs in South Australia rather than pass from community ownership to private ownership.

We note that further consultation is proposed as to the trading scheme and would welcome the opportunity to participate in such further consultation.

Thank you again for the opportunity to comment.

Yours faithfully

A handwritten signature in black ink, appearing to read "H. Martin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Helen Martin
General Manager
CLUBS SA