

By Andrew Wilkie MP,  
Independent Member for Denison

# Gambling on poker machines REFORM



A mother recently gave a searingly honest account of her rapid descent into poker machine addiction to the Joint Select Committee on Gambling Reform that I chair. She had gambled all her life without a problem, but that changed when she was introduced to poker machines. After eight weeks, she was hooked. In her words, she changed from a happy-go-lucky, socially active mother and friend to a restless, isolated, depressed and suicidal woman.

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**T**he nurse spent her days gambling on pokies, only breaking to pick up the kids from school, grab less than two hours' sleep, before heading to work the night shift in ICU. "Potentially it could have been fatal because my mind and my thinking were not clear at that stage," she told the committee. "I was not careful in my checking. I do not believe anyone died as a result of that, but the potential was always there." Asked why she kept going back, she replied, "I woke up for three years with the sound of the pokies' winning jingle playing in my head. It was call-back. Every time I stopped to watch TV I would hear that music and I would see the machines line up and remember the wins that I had. Did I remember how I felt when I left the venue? No."

I have heard countless variations of this story during my years pushing for action on poker machines. The personal stories are the reason I put poker machine reform high on the agenda

in my negotiations with Julia Gillard and Tony Abbott after the 2010 federal election.

In return for my support, the prime minister, Julia Gillard, agreed to introduce a mandatory pre-commitment scheme on poker machines in 2014. A pre-commitment scheme requires poker-machine players, before they start gambling, to set the maximum amount they are prepared to lose. This was a recommendation of the Productivity Commission, which last year concluded it was a 'strong, practicable and ultimately cost-effective option for harm minimisation'. The prime minister also agreed to fit poker machines with electronic warning and cost-of-play displays and introduce a \$250 maximum withdrawal limit from ATMs in pokies venues (except casinos).

In Australia, the regulation of poker machines is left to state and territory governments. On the one hand, these governments are in charge of reducing problem gambling but, with the other they collect billions in tax from pokies.

There's no doubt that the states and territories, which jealously guard the rivers of gold that flow from Australia's 200,000 machines, are horribly addicted to pokies. On average, 10 per cent of their revenue comes from gambling.

The prime minister has given the states and territories until May 31 this year to reveal whether they will voluntarily comply with the reforms. If they refuse, the federal government has vowed to legislate before May next year to meet the 2014 deadline for the introduction of a mandatory pre-commitment scheme. I'm pleased the state government in my home state of Tasmania recently said it would adopt the reforms voluntarily and I'm encouraging other state and territories to follow its lead.

On February 1, the federal government released legal advice from the Australian government solicitor on the Commonwealth's constitutional competence to regulate poker machines. The advice was clear and unambiguous. >>

In short, yes, the Commonwealth has the power under the Constitution to impose the reforms and take over the regulation of poker machines. The advice concluded: 'Although the Commonwealth does not have specific plenary power to legislate in relation to gambling, there are a number of constitutional heads of power that provide the Commonwealth Parliament with extensive power to legislate for the regulation of relevant classes of persons and entities in relation to these matters. In summary, these heads of power include the powers relating to corporations (s51 (xx) of the Constitution), trade and commerce (s51(i)), telecommunications (s51(v)), banking (s51 (xiii)), currency (s51(xii)), taxation (s51(ii)) and territories (s122).'

It's interesting to pause here and note that there is something of a tradition of political reform born in Tasmania and involving the federal government overriding the states. In the early 1980s, the federal government stepped up in the face of huge protests and stopped the Franklin Dam, using the *National Parks and Wildlife Conservation Act 1975*. And less than 20 years ago, the federal government used the *Human Rights (Sexual Conduct) Act 1994* to make inoperative provisions in the Tasmanian Criminal Code that prohibited homosexual conduct in Tasmania.

The Commonwealth has three options to diminish greatly the billions of dollars that problem-gamblers lose to poker machines every year.

The first involves the Commonwealth using the corporations power and other constitutional heads of power to directly regulate the poker machine industry. The legal advice notes that 'most (if not all)' licensees or operators of larger hotels and casinos would be constitutional corporations, and clubs are 'likely' to be trading as such. Parliament would have a range of measures to ensure industry compliance, including civil and criminal penalties or injunctions.

The second option is taxation-based regulation, which would rely on s51 (ii) of the Constitution. Members of the industry that do not comply with the reforms would be punished at the hip pocket, with hefty tax burdens set at levels to encourage compliance. The legal advice suggests that the rate of tax could be set according to the amount of revenue generated by poker machines at recalcitrant venues. The benefit of this option is that it can apply to any legal entity including individuals, corporations and unincorporated associations.

The third option involves combining the first two options and using the taxation scope to supplement the Commonwealth's direct regulation powers. The legal advice suggests a

'tax-avoidance incentive approach is used where direct regulation is not able to be comprehensive'.

So the jury is in and the verdict is clear. Reform is coming and the poker machine industry and state and territory governments would be best to get on board and help shape the details of the pre-commitment scheme.

The Productivity Commission predicts that a 'small' group of problem-gamblers account for 40 per cent of the \$12 billion Australians lose to poker machines each year.

In many parts of Australia, a problem gambler can wander down to their local club or hotel, pull up their stool, and lose more than \$1,500 in one hour on a poker machine.

The Productivity Commission did the maths and came up with the stark reality that a problem gambler playing at even half this intensity for two hours, five times a week – not an unusual amount of time for many hobbies – could lose \$310,000 a year.

Add suicide, depression, relationship breakdown, lowered work productivity, job loss and crime to financial ruin and it's easy to see why pokies are often called the crack cocaine of the gambling industry.

It's time for the poker machine industry and state and territory governments to stop profiting from the misery of problem gamblers and kick the habit. ■

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*In the 2010 federal election, Andrew Wilkie was elected as the Independent Member for Denison; afterwards, he provided certainty of supply and confidence to the ALP, making him one of the four cross-benchers giving government to Labor. Poker machine reform was one of the two deal-breaker issues he negotiated with Julia Gillard, and she agreed to introduce a mandatory pre-commitment scheme on poker machines in 2014. This was a key recommendation of the Productivity Commission, which last year reported that such a pre-commitment scheme was a 'strong, practicable and ultimately cost-effective option for harm minimisation'.*