

GAMING REFORM AGAIN AT THE FOREFRONT AS GILLARD GAMBLES FOR POWER

KARA LAWSON



Gaming reform and the support of Tasmanian independent Andrew Wilkie appear once again critical for the Gillard Government's survival.

After Prime Minister Gillard reneged on her agreement with Andrew Wilkie MP for a national mandatory pre-commitment scheme in January this year, instead proposing a "watered-down" gambling reform package, Mr Wilkie withdrew his support for the Gillard Government. However, with former Liberal Peter Slipper appointed as Speaker of the House of Representatives following the unexpected resignation of Harry Jenkins, the odds were again in Gillard's favour. But this was of course short-lived, with Peter Slipper making the decision to stand down as Speaker shortly thereafter. Gillard appears forced to again engage with, or perhaps inveigle, cross-benchers holding the balance of power, namely, independent Andrew Wilkie.

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Earlier this year, Prime Minister Gillard announced revised, "watered-down" proposals to help address problem gambling, which effectively postpones the core measures previously proposed by Andrew Wilkie. The Federal Government has confirmed that it will not impose mandatory pre-commitment by 2014, as previously proposed, but instead will commence an evidence-building process to inform the best way forward with gambling reforms.

This process will include a trial of pre-commitment technology, proposed to occur in the ACT. Whilst the trial was originally slated to commence in February 2013, this may be somewhat delayed, perhaps indefinitely.

Other measures proposed to be introduced include:

- By the end of 2013, pre-commitment technology must be available on any new electronic gaming machines ("EGMs") manufactured in, or imported to, Australia;
- By the end of 2016, all EGMs must be part of a State-linked pre-commitment system and dynamic warnings and cost of play displays must feature on EGMs, with longer implementation timelines for smaller gaming venues;
- By 1 February 2013, a \$250 per card, per day withdrawal limit from ATMs in gaming venues; and

- An enquiry by the Productivity Commission into the results of a proposed trial of pre-commitment.

On 22 May 2012 Mr Wilkie reluctantly offered his support for the Gillard Government's "watered-down" bill after the Government supported some amendments insisted on by Mr Wilkie, including:

- An amendment to ensure that the mandatory pre-commitment trial is conducted independently; and
- The inclusion of a clear statement that demonstrates mandatory pre-commitment would be possible as a result of the changes to technology required by this legislation. If the trial of mandatory pre-commitment is proven successful, it will be possible to "flick the switch" to expand the pre-commitment scheme nation-wide.



For the time being, the hotel and club industries are offered some solace by the fact that the Federal Government now appears prepared to take a more sensible and evidence-based approach to gambling reform. Though some key issues of concern still remain for the industries, it is hoped the Government will continue to engage with gaming industry stakeholders in developing evidence-based policy.

Nonetheless, it remains that the industries do not have certainty regarding future reform. This process is not complete and the hotel and club industries will continue to be vigilante.

The Government could table the bill shortly. However, whilst Andrew Wilkie's support may assist the bill through the lower House of Representatives, getting the bill through the Senate in its current form may prove more difficult with anti-pokies senator Nick Xenophon recently declaring that he and the Greens are unhappy with the bill.

The Six "P"'s Regarding Actions By OLGR

MARK MADSEN



In any highly regulated industry there is, of course, necessary interaction between the regulator and the regulated. For whatever reason, we have of late seen an increase in hoteliers referring to us for advice in respect of "show cause" notices and "high risk" consideration notices. OLGR investigators have substantial investigative powers in relation to general compliance and in relation to specific incidents, including the ability to access licensed premises, seize documents and require interviews. The outcome is not always favourable. If the final decision in relation to proposed disciplinary action or a high risk consideration is not in the licensee's favour, the only option may be to apply to a Court or Tribunal for relief.

However, it is what a licensee does before the regulator even comes knocking that will have a major impact upon what can be presented to the Court or Tribunal – **p**rior **p**lanning and **p**reparation **p**revents **p**oor **p**erformance.

A licensee should always be prepared through its policies and procedures. Generally, it is only the evidence before OLGR at the time it makes its decision which can be taken into account in any subsequent proceedings. Secondly, and more pertinently, it is proactive steps that will more likely prevent most adverse incidents and otherwise reflect more favourably upon the licensee in

the eyes of the regulator or a Court or Tribunal.

What should a licensee be doing now? Having a RAMP in place which is adhered to, with supporting documentation, will do much to assist.

The RAMP should canvass the proactive steps to be taken by the licensee in respect of at least staff training, RSA initiatives, trading hours, entertainment, duty rosters, entry and exit policies, security procedures and personnel, incident registers, statements and records of interview, CCTV footage, patron banning, and liquor accords.

A copy of the RAMP should be kept with relevant documentation such as the liquor and gaming licences, relevant certificates such as RSA certificates, approved manager registrations, the registered business name and food and hygiene registration certificates, applicable insurance policies, employment letters, staff training manuals, incident registers, engagements with security providers, certificates of classification, a file of correspondence with the OLGR and/or police, any liquor accord, financial records, and a checklist of those documents which can be handed over to an inspector.

Having a well structured RAMP and all of this documentation readily available will not only mean the licensee is constantly turning its mind to it (and, therefore, its practices), but it should also make a positive impact upon any inspector.

If, despite the best efforts of the licensee, OLGR still decides that action may be warranted, it is important that the initial responses to notices issued by the regulator are as comprehensive and as convincing as possible. Should you require assistance with any notices issued by OLGR, please do not hesitate to contact Mark Madsen on 3224 0241 or Curt Schatz on 3224 0230.



CURT SCHATZ
EDITORIAL

There has been a lot happening in the area of Hotels in the last six months.

As many of you would know January 2012 saw the government announce the ability for Hoteliers to apply to increase their gaming machine numbers to 45.

There has been a flurry of activity for these approvals and it will be interesting to see the value of operating authorities in the tenders this year.

There has also been a landmark victory to the Liberal National Party in the recent state election.

Once again it will be interesting to see what changes this may bring to the industry and to observe the priorities focussed upon by the new government.

One can't help but consider that the anti-Labor swing is something closely related to the Gillard-Wilkie deal that was done sometime ago and then undone.

In this edition of the Hospitality Newsletter we provide a snapshot of the history of the deal and the current status.

We also look at the important relationship that licensees have with the OLGR. The article by my partner Mark Madsen seeks to provide some guidance to licensees in dealing with the OLGR upon a surprise visit and to be ready for such a visit, and ensure that both your premises and documentation are in order.

Finally, many Hoteliers will have seen the one page document that I have prepared with our new Banking and Finance senior associate Michael Hobson.

Michael has a wealth of knowledge in the banking and finance area and I recommend his services to any of you who need any help in relation to either lending or borrowing money.

I wish you all the success in the upcoming months and until the next Hospitality newsletter issues.

