

Our position on gambling harm

Dr. Ron Ben-David

Commissioner and Deputy Chair
Victorian Gambling and Casino Control Commission

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Good morning and thank you for joining us for today's forum.

We are meeting today on the land of the Wurundjeri people of the Kulin Nation. I live and work a little to the south-east of here, on the land of the Boon Wurrung and Wurundjeri people. I acknowledge the Traditional Owners of all these lands and waterways. I pay my respects to their Elders, past, present, and emerging; and to the Elders and members of other First Nations communities who may be here today.

My name is Ron Ben-David. I am a Commissioner and Deputy Chair at the Victorian Gambling and Casino Control Commission.

This is an important event for us. In many ways it marks a 'reboot' in our efforts to build a strong partnership with the community – particularly through the organisations you represent, and through the networks you have into your local communities. We are determined to ramp-up, and deepen, our outreach program; and the opportunity to meet directly with folks from the community.

It is a little hard for me to believe that it has been almost a year since the Victorian Gambling and Casino Control Commission was established. You might recall that in the wake of the Royal Commission into the misdeeds of Crown Casino, the Victorian government decided to establish a standalone regulator fully dedicated to overseeing the gambling industry in Victoria. Until July last year, gambling and liquor regulation had been administered by the one regulator.

As I will explain shortly, the creation of the VGCCC last year was not just an exercise in shifting a few deck chairs around. It represents a genuinely reformed view of the role of gambling regulation in this State – one to which I, my fellow commissioners and our staff, are fully committed.

We know, however, that to do our jobs to the best of our abilities we need to form partnerships across the community. As a regulator fully committed to minimising harm from gambling, we need your help. In fact, we need the help of every Victorian to identify where gambling harm is happening, how it is happening, what is causing it, and how it can be prevented.

As a regulator we can (and do) collect a lot of data. We have very clever people who pore over this data looking for signs that gambling operators might either not be complying with the law or finding ways to get around their legal requirements. At the same time, we have inspectors out in the field going into venues; and investigators who collect evidence of non-compliance so that we can take enforcement action. And you can be assured, we are taking action. Our deputy CEO, Scott May, will brief you in a little while about some of the disciplinary actions we are taking – including issuing very large fines on Crown Melbourne, commencing legal proceedings in court, and issuing a range of directions to gambling operators.

Despite all the great work of our analysts, inspectors and investigators, we can't be everywhere that gambling is happening – largely, because these days it is happening everywhere. It's all around us.

I was sitting next to someone on the tram just a few days ago watching how little effort it took for him to place bets continuously; for the whole journey till he got off. All it took was a few wiggles of his thumb. I guess I'll never really know, but it didn't look like he was having fun. It didn't look like he was just having a little flutter for some harmless entertainment.

As a regulator, we can't be everywhere or see everything that is going on 'out there' —no matter how well our analysts, inspectors and investigators do their jobs. That's why we want to enlist your help in weeding out improper conduct by gambling providers – that is conduct that is, or might be, putting members of the community in harm's way. Often it is little things that can cause or contribute to great harm. A little inducement (maybe just a cup of tea) to keep playing. An encouraging word when someone is losing. A friendly tip for a big win.

Whether or not such actions are legal or not, they can be very hard for us to detect. As I said, we can't be everywhere or see everything that's going on out there. That's not an excuse. It's just the reality we face – no matter how frustrating. That's why we need to enlist your support.

You, your clients, their families, your case workers, might see something; might hear something – maybe only incidentally – but if it suggests that harm may be taking place, we want to know about it. In a few moments, Scott will also update you on one particular initiative we are putting in place to make it easier for the community to engage with us.

Also this morning, Chris White, our Manager, Gambling Harm, will take you through some of the work we are doing internally to embed harm minimisation throughout our organisation and in everything we do. We know it is a journey, but there is no going backwards.

Before I hand over to Chris, and then Scott, I want to share something with you that we have been developing in recent months. We call the document *Our Position on Gambling Harm*. It is a statement that tells you – that tells the community-at-large – that tells every gambling operator in this State – exactly where we stand on minimising and preventing harm from gambling. We want to leave no-one in any doubt about where we stand on these matters.

The statement is not a strategy document or an action plan. That's all coming. Nor is it a research agenda. We're working on that with the Victorian Responsible Gambling Foundation. It also doesn't create any new legal obligations for anyone. We have plenty of legal documents if anyone is interested.

No. This document represents something quite unusual. It is our effort to tell the community – and all gambling operators in this State – how we view gambling harm; and how that view will frame everything we do and think about. As I just said, we want to ensure no-one is left in any doubt about where we stand on these matters.

This document represents a line in the sand. It makes clear that the future is not going to be the same as the past.

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Turning to the document...

There are four key themes running through the document. First, we recognise, without qualification, that gambling causes harm to people who participate in gambling activities as well as other people – their family, friends, colleagues, as well as the community in which they live. Second, we make it very clear that harm should be prevented in the first instance and that other circumstances do not alter the fact that someone has

experienced, or is experiencing, harm. I'll explain what I mean in a moment. Third, our statement recognises that while community education campaigns and industry regulation are very important in minimising harm, they cannot prevent the risk of harm entirely. Which brings us to the final key theme – namely, that if the risk of harm remains despite the efforts to contain it through education and regulation, then gambling operators have a duty to care about, and to act on, preventing harm. After all, they choose to provide these products to the community.

I'll now turn to the position statement itself. I won't take you through the document line-by-line. I'll just draw your attention to some of its key elements.

The first thing you'll notice about the document is that it probably doesn't look like anything you've seen before from a regulator. First of all, it is short; unusually short for a regulator at only two pages. Second, the document consists of a series of sharp one-line statements. There's no fluffy language. We're not trying to soften the message so that it can mean anything to anyone. We're saying it 'as it is'. There are no arguments to be had. As far as we're concerned, these statements are self-evidently true. End of story. The third thing you'll notice as I go through the statement is that it represents a fundamental break from the traditional narrative of the past 30 years.

For the past 30 years, concerns about harm have been pushed into the margins. The common narrative about gambling had the effect of marginalising harm by only referring to it in the context of something conveniently labelled, "problem gambling"; or tying harm to human failure by people who didn't gamble "responsibly" (whatever that meant). The post-modernists would refer to this strategy as making harm a characteristic of 'the Other' – and by so doing, marginalising harm to the peripheries of society; the peripheries where "responsible" and decent people certainly don't go.

You'll see no such language from us.

Minimising harm is at the centre of our work. That's what this document is telling you and telling every gambling operator accepting bets in Victoria.

Turning first to statement 1, and in particular, the second and third dot points. Until last year, the regulator was directed by legislation to focus on minimising harm *caused by* problem gambling. In other words, the only harm of concern was the harm associated with a person displaying an extreme behaviour. This is what I mentioned a moment ago. Harm was marginalised as a problem affecting "the Other" – even in legislation.

As of last year, we are now directed to minimise gambling harm and problem gambling. The legislation now recognises that harm is a much broader concern than just something called 'problem gambling', and it directs the regulator to focus on this much broader concept of harm (as well as problem gambling). This new objective also requires us to focus on minimising harm in all the circumstances. That's the purpose of the fourth dot point under statement 1 in the position statement. As far as we're concerned, even when only one person is harmed, we care.

Statement 2 is a statement of fact. Gambling causes harm. The evidence gathered and published by the Victorian Responsible Gambling Foundation places this statement beyond question; beyond reasonable doubt. The link between gambling and harm is established, just like the link between smoking and cancer is established. Of course, that doesn't mean everyone who smokes gets cancer, or everyone who gets cancer has smoked. Likewise, the relationship between gambling and the harm it causes will vary. But statement 2 is about a relationship. It's about a relationship between cause and effect. It is not a statement about prevalence or likelihood of that relationship. It is a statement about consequence; and as such, we consider it to be unequivocally true. Gambling causes harm.

Most of the dot points under statement 2 make it clear that we will not turn away from recognising that harm is caused, even if there are mitigating factors. Or to put it bluntly, as far as we're concerned, 'harm is harm' and nothing changes that fact.

Statement 3 goes even further by putting it beyond doubt that even if someone has recovered from harm – or has the capacity to recover – that does nothing to lessen the harm that was caused in the first place by gambling. And by implication, whether or not someone has, or can, recover from harm, does not alter how we regulate the industry or how we will pursue our statutory objective of minimising gambling harm.

In statement 4 and the dot points that follow, we make it clear that harm can be prevented but the risk of harm always remains live while someone is gambling. Of course, continuing to gamble does not mean harm will necessarily be caused or experienced, but it does mean harm from gambling remains possible. Again, that is a fact, not an opinion. That's why the statement makes it clear that preventing harm means acting immediately and decisively whenever there are signs of harm or possible harm. The words "or possible harm" are important. Where there is good reason to suspect harm, we expect preventative action to be taken. It is not good enough to wait till the harm has taken effect.

I just want to draw your attention to the fourth dot point under statement 4. It highlights that preventing harm requires a concerted effort by multiple parties. These efforts include educating players (and in fact the whole community) so that they are in the best position possible to make informed decisions about their gambling. Of course, it also includes regulation and a regulator who will enforce the law. That's us. As Scott will tell you soon, we *are* enforcing the law. And to be absolutely clear, we consider it is self-evident that gambling operators also bear a responsibility for preventing harm. I will elaborate on our expectations of operators in a moment.

Statement 5 recognises that the gambling industry is highly competitive. This means operators are always looking for an edge over their rivals. That's the natural consequence of a competitive market. The difference, however, when it comes to gambling, is that when a gambling product or environment (whether physical or online) is made more attractive, it also makes *more gambling more attractive*; and more gambling must be presumed to increase the risk of harm. This dynamic is not altered by the fact that a regulator may approve products for lawful sale. A lawfully offered gambling product does not mean the product cannot cause harm.

As mentioned a moment ago, regulation is one of the available tools to protect the community from harm – but regulation is not perfect. It can never address all the ways in which harm may be caused or experienced (see Statement 6). This limitation has always been true, but it is more-true today than ever before. The gambling industry is one of the most innovative industries on earth. Technology has supercharged that innovative dynamic.

As a regulator, we know we must constantly be on the look-out for new ways in which harm may be caused and experienced – and, working with governments and other regulators, we must be alert to the need to evolve what we do and how we do it. As I said at the start of this presentation, that's why we need your help. You are very likely to see new causes and manifestations of harm long before they show up in our data feeds. We need you to tell us about what you are hearing and seeing; and to help us encourage members of the community to tell us what they are seeing and experiencing.

Up to this point we've established that gambling causes harm and that although community education and regulation seek to prevent that harm, those efforts are never guaranteed to be enough. The ways in which harm is caused and experienced are just too varied.

Statement 7 therefore makes clear that we expect gambling operators – businesses who choose to offer products and environments which expose the community to the risk of harm – we expect those gambling operators to bear their share of responsibility for preventing harm. As we state in the second and third dot points under statement 7, that responsibility means operators being on a constant look out for harm, and

where they see or suspect harm is being caused, they have a positive moral responsibility to act. There's no looking away from harm. Harm or a suspicion of harm cannot be unseen.

To be clear, we're not just talking about complying with the law. Of course, operators must comply with the law. (Does that even need to be said?) What we're talking about in Statement 7 is operators taking responsibility for the consequences of their decisions to offer harmful products to the community – to uphold the interests of their customers and their communities; to show and take initiative; to go over-and-above merely complying with their legal obligations.

Let me put it as bluntly as I can: We expect gambling providers to operate *decently* as well as legally.

Decency is not something that can be easily regulated. It's not possible to pass a law saying, "Just act decently." And therefore, it is not always obvious how a regulator can enforce decency. This is why we have included the fourth dot point under statement 7.

In short, what this final clause is saying is that we expect operators to act decently towards their customers by acting to prevent harm from gambling. The fourth dot point makes it clear that if an operator fails to act reasonably to prevent harm, it will give us reason to suspect that perhaps the operator is also not complying with all its legal obligations. And if we form that suspicion, we will, of course, need to satisfy ourselves that there is no evidence of non-compliance with regulatory obligations.

Operators can interpret our position statement as they like. They can interpret the fourth dot point under statement 7 however they like. We would urge them, however, to interpret it very carefully.

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I expect when industry reads the position statement, and perhaps this presentation, they will ask, "But what does it mean? What do you expect us to do?"

And that's exactly the point. We want the industry to ask these questions, but not of us. We want the industry to ask these questions of itself. That's what the second dot point under statement 7 is all about. As far as we are concerned, gambling operators are responsible for turning their minds to identifying and preventing harm. It is no longer acceptable for them to sit on the sidelines passively waiting to be told what to do. Those days are over. This statement marks the beginning of a new relationship between the regulator and the industry; between the industry and the community; and between the regulator (us) and the community (you).

I appreciate this is a big change. We are redefining all the cosy relationships that have prevailed for 30 years. Those days are over.

But to get the ball rolling, let me give you some examples of how industry might act in line with our expectations about taking responsibility.

- If a gambling operator comes to us looking to get regulatory approval for a new product, then we would expect they will have done a rigorous, professional and unbiased assessment of that product and its potential to cause harm – and having performed that assessment, they will be able to demonstrate to us, the product features and their business practices, which they will implement to prevent that harm from happening.
- In a similar vein, if a hotel or club comes to us looking for a gaming machine licence, or an increase in the number of machines at a venue, then we might expect the applicant to have conducted a thorough assessment of the additional risk of harm those machines would represent for the local community. That assessment would include open and transparent consultation with the local council(s), community service providers, and indeed, the local community-at-large. And, having conducted that consultation, the applicant would clearly demonstrate how it has addressed the identified risks of harm as part of its application.

- Speaking of gaming machines, venue operators might start actively promoting YourPlay. I'm not talking about the passive, hide-it-in-the-corner, minimalist approach to regulatory compliance we see today. I mean actively getting customers to sign-up. Maybe even rewarding customers for signing-up rather than just for playing more. Getting customers to sign-up because it is the *right* thing to do.
- Or, imagine if the industry came to us with a proposal to make YourPlay mandatory – that is, mandatory carded play where players set limits on how much, or for how long, they can gamble. Imagine the industry taking the lead rather than waiting to be told what to do by the regulator. Dare we even imagine the industry proposing something similar to Tasmania's recent policy announcement where mandatory play limits are already programmed into players' carded accounts?
- Or, imagine if the online wagering industry came forward with a registration scheme for any operator taking bets from Victorians, with that scheme requiring all operators to comply with all Victorian harm minimisation requirements. Or imagine if the local industry stopped hiding behind the strawman that if they acted decently, then players will just migrate to unlicensed overseas operators. It defies my understanding of civility when I hear an industry peak body arguing its members should be allowed to act in ways that cause harm simply because that's what illegal operators are doing.

But beyond these administrative expectations, we come back to the notion of decency – that is: acting with someone else's best interests in mind; not turning a blind eye to the possibility that harm may be happening; and taking responsibility for intervening even if means forfeiting a few extra dollars.

It also means if we (the regulator) come knocking because we have reason to believe an operator allowed someone to keep playing despite the warning signs, then that operator will have a very clear record demonstrating it acted responsibly, pro-actively and promptly to prevent that person from incurring harm.

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The Victorian Gambling and Casino Control Commission was created almost a year ago reflecting the community's despair and fury following the Royal Commission into Crown Casino. It was created to reflect changing community standards toward gambling and the harm it causes. Those changing community standards now form the keystone of everything we do. Our legislation has made it that way. Our legislated objective is to minimise gambling harm and problem gambling.

From today onwards, it can never be said that we have not made our position on gambling harm clear for all to see.