

IN THE MATTER of:
ROYAL COMMISSION INTO THE CASINO
OPERATOR AND LICENCE

SUBMISSIONS OF THE STATE OF VICTORIA
ON MANDATORY PRE-COMMITMENT AT THE MELBOURNE CASINO

1. The State of Victoria makes the following submissions in response to the Commissioner's direction on 3 August 2021 to provide a post-hearing written submission on mandatory pre-commitment at the Melbourne casino.
2. Before addressing what relevant considerations should apply to the Royal Commission's formulation of any recommendations on this topic, it is useful to outline the current forms of pre-commitment available at the casino in relation to Electronic Gaming Machines (EGMs) and Fully Automated Table Games.

Current status of pre-commitment

Crown's Play Safe Limits system

3. Crown operates a voluntary pre-commitment system called Play Safe Limits, which is available to Loyalty Program members who play Fully Automated Table Games, and which allows a member to set daily limits on spend and time on such games.¹

YourPlay – its origins, scope and features applicable to EGMs at the casino

4. Crown also operates the Victorian State Government's voluntary pre-commitment scheme for all customers who play EGMs, YourPlay.²

¹ Exhibit RC0109 Statement of Sonia Bauer 5 May 2021 at [127]-[128].

² Exhibit RC0109 Statement of Sonia Bauer 5 May 2021 at [130].

5. The origins of YourPlay can be traced back to the State's response to the Report into Gambling of the Australian Productivity Commission released on 23 June 2010 (the **PC Report**).³
6. There are different ways in which different aspects of "pre-commitment" can be regarded as voluntary or mandatory. The Productivity Commission remarked on this in its report:⁴

Should people be bound by the pre-commitments they make? Under 'partial' pre-commitment, people are not obliged to be in the system. When they are, they can choose to set or not to set limits, and if they breach such limits, they can continue to play. In contrast, under 'full' pre-commitment, people must be in the system, but voluntarily set limits. If they set limits, they are bound by them. Often the former is referred to as 'voluntary' pre-commitment and the latter as 'mandatory'. However, these labels are confusing. Both systems are essentially 'voluntary' since the gambler can choose whether to set a limit in either.

7. A full pre-commitment system is mandatory in the sense that gamblers must participate in it as a precondition of gambling, but voluntary in the sense that the gambler may set their own limits. A partial system is one in which even participation is voluntary.
8. The PC Report recommended that each state or territory government should implement a jurisdictionally-based full pre-commitment scheme (recommendation 10.4),⁵ subject to initial development (recommendation 19.1),⁶ trialling (recommendation 19.2)⁷ and compatible monitoring systems (recommendation 10.6).⁸

³ Exhibit RC0322 Annexure w, Australian Government Productivity Commission Gambling Inquiry Report (**PC Report**) – Volume 1, 26 February 2010.

⁴ PC Report, Volume 1, pages 10.19-10.20.

⁵ PC Report, Volume 1, recommendation 10.4, page 54, section 10 Pre-commitment strategies, pages 10.23-10.41.

⁶ PC Report, Volume 1, recommendation 19.1, page 65; PC Report, Volume 1., section 19 Implementation issues and transitions, pages 19.14-19.15.

⁷ PC Report, Volume 1, recommendation 19.2, pages 65-66; Exhibit RC0322 Annexure w, Australian Government Productivity Commission Gambling Inquiry Report – Volume 2, 26 February 2010, section 19 Implementation issues and transitions, page 19.21.

⁸ PC Report, Volume 1, recommendation 10.6, page 55, section 10 Pre-commitment strategies, page 10.38.

9. The Productivity Commission proposed an initial transition to a partial pre-commitment system.⁹ Subject to the final features of the future pre-commitment system being determined following trials, the Productivity Commission proposed a full pre-commitment system, involving the use of a card or other access device or technology that identifies the player,¹⁰ by which players could “voluntarily set personally-defined precommitments and, at a minimum, a spending limit, without subsequently being able to revoke these in the set period”.¹¹
10. In December 2015, the Victorian Government introduced a voluntary pre-commitment scheme, YourPlay, on all EGMs in Victoria.¹²
11. YourPlay provides a player with the ability to set limits on the amount of time and money they want to spend on gaming machines and to keep track of the time and losses as they play. YourPlay enables a player to keep track of their own gaming machine play at any gaming venue, state-wide, in real-time.¹³
12. A player can choose to register for a YourPlay account or they can choose to use YourPlay anonymously. The YourPlay system is accessed by a player card, and gaming operators who offer loyalty programs, like Crown Melbourne, are required to use the same type of card as YourPlay and must add a player’s YourPlay account to their loyalty card upon request, so the player can use both systems at the same time. The same YourPlay account number can be encoded on multiple loyalty cards so a player’s pre-commitment information travels with them to any venue they wish to attend.¹⁴

⁹ PC Report, Volume 1, recommendation 10.5, page 55.

¹⁰ PC Report, Volume 1, pages 10.25-10.26.

¹¹ PC Report, Volume 1, recommendation 10.4, pages 54-55.

¹² *Gambling Regulation Amendment (Pre-commitment) Act 2014*; Gambling Regulation (Pre-commitment and Loyalty Scheme) Regulations 2014; Direction of the Minister for Liquor and Gaming Regulation under section 3.8A.2 of the *Gambling Regulation Act 2003*, 28 March 2014.

¹³ Department of Justice and Community Safety, ‘YourPlay – Victoria’s pre-commitment scheme’, 13 May 2020, <https://www.justice.vic.gov.au/safer-communities/gambling/yourplay-victorias-pre-commitment-scheme>.

¹⁴ Department of Justice and Community Safety, ‘YourPlay – Victoria’s pre-commitment scheme’, 13 May 2020, <https://www.justice.vic.gov.au/safer-communities/gambling/yourplay-victorias-pre-commitment-scheme>, page vi.

13. When used at a gaming machine, YourPlay displays, discreetly and at regular intervals, updated information on the time and money a player is spending on gaming machines and in addition, displays progress updates against any limits set by the player (at 70% and 90% limit thresholds) as they play. When displaying the limit updates, YourPlay also displays any personal message set by the player as a reminder or a prompt to help the player observe their limits.¹⁵
14. When a player reaches their set limit for either time or money, this information is displayed to the player at the gaming machine and play is automatically disabled. If the player wishes to continue to play the machine, this requires an intervention on the machine's controls by the player.
15. A player who chooses to continue to play beyond their limit(s) continues to receive regular updates on the time and money they are spending over their limit to help make informed decisions on their gaming machine play. Loyalty points cannot be accrued for gaming machine play once a player has reached their limit for the duration of their nominated period (for example, for the rest of the day, if the player set a daily limit and that limit has been exceeded).
16. YourPlay operates the same way at the casino as it does in all other gaming venues for gaming machines operating in "regular" mode.
17. In addition, up to 1000 EGMs in certain areas of the casino are permitted to operate in "unrestricted mode".¹⁶ Gaming machines operating in unrestricted mode have no restrictions on autoplay, spin rates or note acceptors, and are not subject to the maximum bet limits that apply to gaming machines in regular mode.¹⁷
18. A person may only play a gaming machine in unrestricted mode if they have set a time limit and a net loss limit and have not exceeded their nominated limit. If a player chooses to continue to play beyond their limit(s), the gaming machine reverts to restricted mode

¹⁵ Department of Justice and Community Safety, 'YourPlay – Victoria's pre-commitment scheme', 13 May 2020, <https://www.justice.vic.gov.au/safer-communities/gambling/yourplay-victorias-pre-commitment-scheme>, page vi.

¹⁶ Exhibit RC0145 Statement of Shane Peter Lucas 10 May 2021 at [88.2.1].

¹⁷ Exhibit RC0145 Statement of Shane Peter Lucas 10 May 2021 at [88.2.2].

for the rest of the day or week, depending on their nominated limit period. This also applies on any other gaming machine at which the player uses their card during that period.

Evaluation of YourPlay 2019 and responding reform program

19. In 2019, the South Australian Centre for Economic Studies (**SACES**) completed an evaluation of the YourPlay scheme.¹⁸
20. Overall, SACES assessed the implementation of YourPlay as a success, noting that all venues had acquired and installed the required system hardware and software before launch and staff had received the necessary training. Furthermore, the system has been stable in use and importantly the scheme delivered benefits to players who used it.¹⁹In addition, the report recommended 23 policy changes for YourPlay to meet its objectives, including:
 - (a) YourPlay should be issued on an “opt out”, rather than “opt in” basis when venues issue loyalty cards to players.²⁰ This would mean that all loyalty cards issued would include a YourPlay account, providing all loyalty players with the capability to track their spending and set limits if they chose to.²¹
 - (b) The removal of the requirement for YourPlay users to enter a PIN at the commencement of their gambling to open their YourPlay account at the gaming machine, which was identified as a potential barrier to use.²²
 - (c) Those gambling on gaming machines at the casino should make an explicit choice to gamble in unrestricted mode, rather than the machine switching to

¹⁸ The South Australian Centre for Economic Studies, University of Adelaide, ‘Evaluation of YourPlay Final Report’, March 2019, https://files.justice.vic.gov.au/2021-06/Evaluation%20of%20YourPlay%20Final%20Report_0.pdf?jW9FiACdfzWLUm_5R7MBzUB6dzYef2K1= (**SACES Evaluation Report**).

¹⁹ [SACES](#) Evaluation Report, pages i, ix.

²⁰ [SACES](#) Evaluation Report, recommendation 1, page ii.

²¹ [SACES](#) Evaluation Report, page 23.

²² [SACES](#) Evaluation Report, recommendation 19, page iv.

unrestricted mode automatically when a loyalty card with YourPlay limits set is inserted.²³

21. The SACES report also identified the limit-setting behaviours at the Melbourne casino as excessive. For example, during the 6 years YourPlay has been operational at the casino, approximately 80% of players have set daily limits of \$1,000,000. The report recommended the Department should work with the casino with a view to improve the staff scripts to help players set more meaningful limits.²⁴
22. We are instructed to inform the Royal Commission that:
 - (a) the Victorian Government has accepted all the recommendations in the SACES YourPlay evaluation report, including considering how the parameters of YourPlay can be strengthened at the Melbourne casino.²⁵
 - (b) the Department of Justice and Community Safety has commenced the implementation of the evaluation report's recommendations, including the implementation of the recommendations that are specific to Crown. This implementation project is due to be completed in December 2022.

Relevant considerations regarding mandatory pre-commitment

23. As mentioned above, a pre-commitment system can be partial (participation is voluntary) or full (participation is mandatory, but limits may be voluntary). Further, in a pre-commitment system, limits and other features can be:
 - (a) optional or mandatory for the player to set;
 - (b) binding (locking a player out when a limit is reached) or non-binding (a player can continue to play but potentially triggers other changes such as cessation of gaming machine features or accrual of loyalty points).

²³ [SACES](#) Evaluation Report, recommendation 1, page 23.

²⁴ [SACES](#) Evaluation Report, recommendation 3, page viii, page 43.

²⁵ On 21 February 2020, the Minister for Gaming and Liquor Regulation released the [SACES](#) Evaluation Report, accepting all 23 recommendations, <https://www.justice.vic.gov.au/safer-communities/gambling/yourplay-victorias-pre-commitment-scheme>.

24. Gambling-related pre-commitment systems are generally referred to in the context of EGMs, but may operate on other forms of gambling. Possible forms of mandatory pre-commitment might, for example, be limited to:
- (a) EGM play in unrestricted mode at the casino,
 - (b) all EGM play at the casino (perhaps accompanied by the same requirement for any EGM play anywhere in Victoria to minimise avoidance and confusion), and/or
 - (c) some other forms of gambling at the casino, such as Fully Automated Table Games, and/or
 - (d) at least theoretically, other forms of gambling at the casino.
25. Beyond the State Government's commitment to implementation of all SACES's recommendations to strengthen the YourPlay system, the State has not made any decision about whether to go further and to mandate participation in YourPlay for play on all EGMs at the casino (or at other venues), nor any decision to attempt to facilitate prohibitions on gamblers who might choose to gamble beyond their pre-selected limits. Nothing in this submission is intended to foreshadow any such decision. There are a number of important considerations that would apply in future deliberations on these issues. In the remaining paragraphs of these submissions, some of the key considerations are identified to assist the Royal Commission in its deliberations.
26. First, there are various practical and technical matters that would present challenges in transitioning to a pre-commitment system with mandatory elements of the kinds discussed above. YourPlay was not designed to facilitate mandatory outcomes of these kinds. We are instructed to inform the Royal Commission that significant infrastructure changes would need to be made to modify the system, at significant cost and over quite a significant development period, to attempt such changes. Further, the outcome would not rest entirely in the State's hands, and it would be difficult to foresee what time and resources might be involved to work through the technical, operational and commercial issues with the other key stakeholders. Much would depend on the capabilities and negotiating position of Intralot, the State's third party EGM monitor and systems provider of the YourPlay system. The operational capabilities of the casino operator are also relevant. As well as development of the necessary technology and systems, detailed

discussions would need to take place resulting in drafting of tri-partite agreements between Intralot, the State and the casino operator to ensure the appropriate allocation of responsibilities and management of liabilities, regulatory and commercial risk.

27. Secondly, the technological and operational context in which strengthened or mandatory pre-commitment might be implemented is constantly evolving. This context is important because, as mentioned above, a means of reliable identification of individual gamblers would be critical to the effectiveness of any full system of pre-commitment system. In this regard, at a meeting held between Crown and State representatives in August 2020, Crown presented to the Minister its concepts for implementing cashless gambling, using a “digital wallet” system to be developed for its customers. This development might support the facilitation of binding selected limits by preventing the addition of further funds into the customer’s digital wallet in excess of limits pre-set by the customer.
28. We are instructed to inform the Royal Commission that the Minister for Consumer Affairs, Gaming and Liquor Regulation has instructed the Department of Justice and Community Safety to work with Crown in analysing its proposal to implement a digital wallet scheme and to explore ways in which that scheme might be implemented consistently with the existing YourPlay scheme.²⁶
29. Other participants in the Royal Commission have expressed views on the potential for tightening pre-commitment.
30. Counsel Assisting’s written submissions do not include a recommendation that mandatory pre-commitment apply to all or any gambling at the casino. However, at [4.7] to [4.10], they identify potential improvements in the way Crown’s Responsible Gambling Code of Conduct and responsible gambling practices could make use of the YourPlay pre-commitment program. At [4.10], they record the following points acknowledged by Mr Blackburn:

Q. Do you agree that Crown should not permit a person to continue gambling if they reach a pre-determined YourPlay time or money limit?

A. I do.

...

²⁶ Exhibit RC0407 Crown Resorts Evolution to Digital Payments Report, August 2020, pages 13-23.

Q. So Crown obviously can't, at the moment the way things are, set limits for patrons. Do you agree customers should be encouraged by Crown to set realistic and affordable YourPlay limits consistent with what the Foundation's recommendation is?

A. I do.

Q. Do you agree with me that if Crown wanted to have limits and make sure players, when they reached pre-determined limits, stop playing, it is big enough and it has the resources, if it has the will it could make these things happen?

A. I do.

31. Earlier in the inquiry, the Victorian Responsible Gambling Foundation provided a public submission to the Royal Commission that included a relatively brief suggestion that one of the measures that would result in “better practice” to reduce problem gambling or gambling harm in casinos would be to “*impose mandatory universal pre-commitment systems that require customers to set a binding monetary and/or time gambling limit(s) per day prior to entry the casino*”.²⁷ At the conclusion of the inquiry, the VRGF’s provided clarification of its submission on mandatory pre-commitment, submitting that “Time and money limits” should be implemented, including requirements for Crown to:²⁸

(B) enable a universal system (i.e. an enhanced state-wide YourPlay scheme) that requires customers to set a binding money and/or time gambling limit(s)

...

(A) assist people who gamble at the Melbourne Casino to set time and money limits appropriate for the individual, and

(B) stop people from continuing to gamble at the Melbourne Casino when one of their selected limits is reached (for example, by a technological solution that prevents continued gambling beyond a selected limit).

32. As already noted, a full (or to use the VRGF’s term, universal) pre-commitment system would require a reliable means of customer identification. However, the VRGF does not necessarily support a change to cashless and exclusively carded play, sounding a cautionary note that this could exacerbate problem gambling.²⁹ The PC Report considered cashless gaming in 2010, noting that cashless gaming could have both

²⁷ Victorian Responsible Gambling Foundation (**VRGF**), Submission to the Royal Commission dated 31 May 2021 SUB.0005.0031.0044 at [34.5].

²⁸ VRGF, Submission dated 2 August 2021, section 13.3.1, pages 35-36.

²⁹ VRGF, Submission dated 2 August 2021, section 10.3, at page 23.

advantages and disadvantages for consumers as all forms of cashless gaming allows gamblers to easily withdraw any cash balances on the machine and reduces the temptation by gamblers to continue playing to exhaust those balances. However, cashless gaming may disguise the fact that people are spending ‘real’ money and may reinforce anonymous, intense and uninterrupted play.³⁰

33. With reference to the potential introduction of any form of mandatory pre-commitment and the development and implementation challenges that would arise, we are instructed to inform the Royal Commission as follows:
- (a) YourPlay was not designed as a mandatory system, and from a technical perspective, the system cannot readily be converted to a mandatory system, and is not currently fit for that purpose.
 - (b) Further, assuming YourPlay could be converted into a mandatory system at the Melbourne casino (with mandatory participation and binding limits), if gaming venues were to remain subject to the current YourPlay parameters, this would likely require a system design overhaul and considerable technical and cost implications.
 - (c) It would also create player confusion about the application of limits and other functionality across venues and add to the existing challenge of simple and consistent messaging to encourage take up and attempts to address player concerns about privacy and government access to personal information.
 - (d) A mandatory system with binding limits may be of reduced effectiveness if it does not apply to all gambling products at the casino, as players may simply move to table games if pre-commitment limits on gaming machines are mandated and binding. However, the application of pre-commitment on table games is extremely complex.
 - (e) Consideration of a player tracking system in the form of mandatory pre-commitment at the Melbourne casino requires further detailed analysis and consultation, including about the purpose and scope of the proposal, the elements

³⁰ PC Report, page 10.42.

of a system that may be optional and/or binding, and the extent to which it would sit alongside, within or separate to the state-wide scheme.

34. Noting the challenges above, it is the State's intention to continue to make improvements to the existing voluntary YourPlay scheme. In doing so, the Government will continue (after the delivery of the final report of this Royal Commission) to review and update the Ministerial Directions on Responsible Gambling setting out the requirements for Crown's Codes of Conduct as appropriate³¹ and intends to work with Crown in analysing its proposal to implement a digital wallet scheme, including by exploring ways in which that scheme might be implemented consistently with the existing features of the YourPlay scheme.

12 August 2021

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³¹ *Submissions of the State of Victoria in response to Counsel Assisting's Closing Submissions*, 2 August 2021, at [45].